

APPENDIX

QUESTIONS BY SENATOR GOLDWATER TO COMMISSIONER ALEXANDER CONCERNING
IRS ACTIVITIES, AND COMMISSIONER ALEXANDER'S RESPONSES

Question 1. (a) Out of 81 million tax returns that were filed in 1974, about 69 million, or 85 percent, were furnished to tax authorities in 38 States under an Internal Revenue Treaty arrangement. What is the nature of the treaty?

(b) What safeguards, if any, are provided?

(c) What prevents States from distributing personal tax information to lawyers, bankers, credit agencies or any one else?

Response. *(a)* Under authority of section 6103(b) of the Internal Revenue Code, and under arrangements worked out between the Internal Revenue Service and the National Association of Tax Administrators, the Service makes available, each year, a selected list of data elements in magnetic tape mode taken from our Individual Master File (IMF). These data show taxpayer identity and certain income and tax information for individuals filing Federal individual income tax returns. Our Federal-State Agreements on Coordination of Tax Administration provide a means for formalizing the efforts of the Service and the States to continue their cooperative programs and to enter into additional arrangements for improving the administration and enforcement of tax laws of each respective jurisdiction. A copy of one of our recent agreements, with the State of Ohio, is attached (Attachment 1. See page 106.)

(b) Each year, when notices are sent out to the States informing them of the current year program for tape extracts from our IMF, copies of the Service's Publication 664, *Federal-State Exchange Program*, containing a detailed listing of the participating States' data usage responsibilities, and a reminder of the penalties for unauthorized disclosure of Federal tax return information, are also furnished. (Copies of this publication are available as IRS Publication 664.) Additionally, our Federal-State agreements contain similar provisions for safeguarding Federal tax return information.

(c) State employees are subject to the same penalties, under section 7213(a) of the Internal Revenue Code, for unauthorized disclosures of Federal tax return information as are Federal employees. These penalties provide, upon conviction, for a fine of not more than \$1,000 or imprisonment of not more than 1 year, or both, together with the costs of prosecution. State tax personnel using Federal tax return information furnished them on magnetic tape are reminded of these penalties in the aforementioned Publication 664.

Question 2. Why was it necessary to suspend operation of the Information Gathering and Retrieval System earlier this year? What changes were made?

Response. These information gathering activities were suspended by telegram on January 22, 1975. These activities were suspended to allow a review of our procedures when it was alleged that some employees were collecting and retaining non-tax-related items.

After a review of our procedures, I issued new guidelines for information gathering in Manual Supplement 39G-152 on June 23, 1975. This document is available to the public. The new guidelines were issued to afford clearer definition of tax related data. They also require management involvement through prior authorization in writing before an agent can gather or retain information. The new procedures also require stringent review of information gathering activities. A copy of the new guidelines is attached (Attachment 2. See page 116.)

Question 3. What is your electronic surveillance program in which telephone calls are monitored?

Response. The Service has a program for taxpayer assistance in which telephone calls are occasionally monitored by a supervisor or designated Taxpayer Service Representative to see if correct answers are being given in a courteous manner. However, "electronic surveillance" would not be an appropriate term to describe this program. When monitoring taxpayer assistance calls, the identity of the taxpayer is not even known unless he volunteers it, or unless the question is so complicated that it cannot be answered without some research. In the latter situation, it is more practical for IRS to call the taxpayer back when the answer has been found, so we would ask for the taxpayer's name and phone number in such cases.

Except in a call-back situation, no notes of the conversation are held, and in no case are conversations recorded in any way. Since the purpose of the monitoring is to oversee the quality of the answers and the manner in which our em-

ployees deal with the public, a specific instance of monitoring is done without the employee's knowledge, even though all employees who serve in the taxpayer assistance program understand that the monitoring occurs as a regular practice.

So that taxpayers are aware that telephone calls in taxpayer service offices are monitored, we have highlighted the following statement on the front page of the tax package sent out to all taxpayers at filing time: "To help us provide courteous responses and accurate information, IRS supervisors occasionally monitor telephone calls. No record is made of the taxpayer's name, address, or social security number except where, at the taxpayer's request, a followup telephone call must be made."

As a matter of Service policy, the use of electronic devices to intercept telephone conversations without the consent of at least one of the parties to the conversation, frequently referred to as "wiretapping," is absolutely prohibited. In our investigations of suspected illegal activity, we do on occasions use the legally permissible technique of intercepting telephone conversations by the use of electronic devices if at least one of the parties to the conversation consents. Such instances are strictly controlled and require the approval of an IRS official designated by the Commissioner.

Question 4. Was the formal establishment of the Special Service Staff really an extension of the checking that was started on the 22 extremist groups in 1961 and later expanded to include 25 more in 1963?

Response. Although the Special Service Staff activities were similar in some respects to the checking that was started on extremist groups in 1961 and 1963, the Special Services Staff was not an extension of the earlier activity.

As noted in the June 5, 1975 staff report of the investigation of the Special Service Staff for the Joint Committee on Internal Revenue Taxation, the examination which began in 1961 of the 22 organizations was largely completed in 1963. The examination which began in 1963 of the 25 organizations was completed, for the most part, in 1966.

In November of 1967, a status report on the cases involving these organizations was given to Commissioner Sheldon Cohen. The report noted that the major purposes of the study were fulfilled early in 1966. The Joint Committee Report says that Commissioner Cohen told of his decision to wind down the project, putting such examinations back into the normal channels, after he became Commissioner (January, 1965 to January, 1969).

The origins of the Special Service Staff were in the summer of 1969. The reasons for its creation are accurately discussed in the Joint Committee staff report of investigation.

Question 5. In 1974 more than 8,000 Federal income tax returns were made available to other Federal agencies for police work. Did the IRS receive adequate assurances that these returns were being used for law enforcement purposes? Was there any checking?

Response. Treasury regulations require that requests for tax information from Federal agencies must state the reason for the request, and only if this and all other requirements under the regulations are met is authorization granted. Most requests contain paragraphs similar to the following:

"Unless it is determined that such documents should be filed with the Court or otherwise used in evidence in such case, access thereto, on a need-to-know basis, will be limited to those attorneys or employees who are actively engaged in the case. Under no condition will they be made public except to the extent that publicity necessarily results if they are used in litigation. Persons having access to these documents will be cautioned as to the confidentiality of the information contained therein and of the penalty provisions of Section 7213 of the Internal Revenue Code and Section 1905, Title 18, U.S.C., regarding the unauthorized disclosure of such information."

In addition, all our responses contain a paragraph which reminds the requester that the information is being furnished only for the purpose for which it was requested and again reminding them of the penalty provisions of the Internal Revenue Code. Although we do not check further to see how the information is being used (or have the resources or ability, as a practical matter, to do so), it should be noted that all federal employees are subject to the sanctions contained in the Code (fine up to \$1,000 or imprisonment up to one year, or both). We also feel it is the responsibility of the agency to ensure that an unauthorized disclosure is not made of the information it has received.

ATTACHMENT 1

AGREEMENT ON COORDINATION OF TAX ADMINISTRATION WITH THE STATE OF OHIO PROVIDED TO THE SENATE SELECT COMMITTEE BY COMMISSIONER ALEXANDER

The State of Ohio and the United States Internal Revenue Service, U. S. Department of the Treasury, recognize the mutual benefits to be derived through coordination of their tax administration programs to secure returns, determine tax liability, and effect collection of taxes; and the parties, updating and renewing their agreement of December 23, 1971, do hereby agree to continue cooperative programs already established and to enter into additional arrangements designed to improve the administration and enforcement of the tax laws of their respective jurisdictions. With these objectives, officials of the State, acting under authority vested in or delegated to them to administer State tax laws, and the District Director and other appropriate officials of the Internal Revenue Service will consult from time to time regarding their respective enforcement facilities and problems, and will establish mutually agreeable programs for the exchange of information and assistance.

1. Basis for Instituting Actions -- This agreement provides the general basis for achieving the stated objectives in the coordination of tax administration and the general nature of the actions to be taken in accordance with these objectives. Specific arrangements to achieve these objectives will be initiated in a manner and at such time as is mutually agreeable to the appropriate State and Internal Revenue Service officials. They shall explore and adopt mutually acceptable techniques and modes of exchange which will be most beneficial to improved tax

administration, with least possible interruption to their respective operating routines, and with strict adherence to rules, regulations, and laws for protecting the confidentiality of tax returns and tax return information. To this end, they will seek to attain the maximum exchange of data by electronic and mechanical means.

2. Inspection of Tax Returns -- This agreement shall constitute the requisite authorization for designated personnel of the Internal Revenue Service to inspect all classes of State tax returns. This agreement shall also constitute the requisite authorization for designated tax personnel of the State to inspect income, estate, gift, employment, excise, and all other classes of Federal tax returns administered by the Internal Revenue Service (except the return relating to the occupational tax on coin-operated devices, Subchapter B of Chapter 36), for the purpose of administering State tax laws or for the purpose of furnishing information to local tax officials for use in administering local tax laws.

This authorization shall continue in effect until such time as the Commissioner of Internal Revenue, by written notice to the Governor, provides that such inspection will be permitted only on the basis of periodic applications therefor. The inspection of Federal returns pursuant to this authorization will be for the purpose of administering the following State tax laws: personal property tax, franchise tax, income tax, estate tax, excise tax and all other State tax laws.

As a prerequisite to inspection by State tax personnel of Federal returns or receipt of related information, the Governor agrees to furnish to the District Directors of Internal Revenue at Cincinnati and Cleveland a list showing the names, official titles, and the social security numbers of all State tax personnel designated by the Governor to inspect Federal tax returns or receive related information. Such list will note whether any State tax personnel so designated are limited to the inspection of certain classes of Federal tax returns or related information. Additions to and deletions from the list will be furnished as they occur. Likewise, information concerning Internal Revenue Service personnel designated to inspect State tax returns or related information shall be furnished to the State in the form and manner requested by the State.

Federal tax return or taxpayer name and address information may be furnished by State tax authorities to tax officials of a political subdivision of the State for use in administering the tax laws of such subdivision only after the Governor has requested and obtained written authorization from the Commissioner of Internal Revenue. Any request for such authorization shall state the official titles of the local tax officials who will receive the tax return information, shall indicate the specific data to be furnished, and shall refer to the local tax laws which such officials are charged with administering. Any such authorization is conditioned on the agreement of the State to furnish to local tax officials only such tax return data as is directly pertinent and essential to the administration of the local tax laws, to ensure that such local officials establish and enforce adequate safeguards to prevent

unauthorized use or disclosure of such information, and to maintain a list of the names of the local tax officials to whom the information is furnished.

3. Delinquent Returns and Collection of Taxes -- Under such arrangements as may be practicable and feasible, the appropriate State and Internal Revenue Service officials will furnish each other information which will assist in locating the whereabouts, sources of income, employers, or real and personal property of persons whose tax accounts are delinquent. Additionally, they will exchange lists of taxpayers and other information relevant to the identification of persons who have failed to file tax returns.

4. Cooperative Audits and Audit Adjustments -- Within the framework of available enforcement resources, the appropriate State and Internal Revenue Service officials will develop cooperative return selection and examination programs with the objective of minimum duplicate audit effort, increased Federal and State audit coverage and minimum taxpayer contact. They will furnish each other, in accordance with mutually agreed schedules and routines, information on audit adjustments made by their respective offices, and such other information as will assist in determining final tax liability.

5. Scope of Exchange -- Other information relevant to the administration of State and Federal taxes may be exchanged, if feasible, under

arrangements made by the appropriate State and Federal tax officials. Such information may include, but shall not be limited to, lists, magnetic tapes, transcripts or abstracts pertaining to: (a) taxpayer identity and address, and tax return and related data; (b) tax refunds and rebates; (c) registrations of automobiles, trucks, tractors, and other highway motor vehicles; (d) distributors and suppliers of motor fuels and special fuels; (e) organizations exempt from taxes under State or Federal law and revocation of exempt status; (f) individuals, partnerships, and corporations engaged in a specific type of business or profession; (g) incorporations and dissolutions of corporations; (h) valuations and appraisals of real or personal property; (i) inventories of lock boxes of decedents; (j) employers, together with their addresses and identification numbers; (k) data relating to the production, processing, and transportation of fossil fuels, minerals, and other natural resources; and (l) other data, including information relating to the regulation of tax return preparers, which the appropriate State tax and Federal tax officials may deem to be useful in tax administration.

6. Other Cooperative Activities -- In addition to the exchange of tax information, State and Internal Revenue Service officials will, to the extent feasible, extend to each other assistance in other tax administration matters. This may include such activities as taxpayer assistance, stocking tax forms for the public, training of personnel, special statistical studies and compilations of data, development and improvement of tax administration systems and procedures, and such other activities as may improve tax administration.

7. Limitations -- The extent of exchange of tax return and related information between the Internal Revenue Service and the State is conditioned upon similarities in tax structures and rates, statutory authority, regulations, administrative procedures, and available resources. Differences in the two tax systems will be taken into consideration in determining the extent of the exchange.

All tax information furnished pursuant to this agreement, irrespective of the manner, form or mode, shall be used solely for the purpose of tax administration. No person shall disclose any information acquired by him to any person in any manner whatever not provided by law.

Information generally will not be furnished respecting any case in which prosecution is pending or is under consideration, but may be furnished after the criminal aspects of a case have been finally disposed of, irrespective of the method of disposition.

Because some taxpayers may be unaware that State tax officials are authorized under Federal law to obtain Federal tax return information for State or local tax administration purposes, letters to taxpayers from the State or its political subdivisions will clearly state that such information was obtained pursuant to law.

State tax officials may not disclose any Federal tax return or return information to tax officials of any other State, or to political

subdivisions of any State, without written authorization from the Commissioner of Internal Revenue.

8. Officials to Contact for the Obtaining of Information --

Requests by the State for tax return information in magnetic tape mode will be made to the Commissioner of Internal Revenue, attention ACTS:A. Requests for physical inspection or copying of Federal tax returns showing addresses within the State will be made to the Director, Internal Revenue Service Center, 201 West Second Street, Covington, Kentucky 41011; requests for inspection and copying of audit abstracts and reports pertaining to such returns will be made to the District Directors at Cincinnati and Cleveland, who will be responsible for making proper arrangements for such inspection. For tax returns showing addresses outside the State, the requests will be made by the Governor to the Commissioner of Internal Revenue, attention CP:D. Requests by Internal Revenue Service personnel for inspection or copying of State tax returns and related documents will be made to the Tax Commissioner of Ohio.

9. Protecting the Confidentiality of Tax Returns -- The State of Ohio and the Internal Revenue Service recognize their mutual responsibilities to protect the confidentiality of tax return information, as provided by law, and to assure that such information is disclosed only to those persons, and for such purposes, as are authorized by law. In recognition of these responsibilities, each

party to this agreement shall, when requested by the other party, review with the other party its safeguard measures to protect the confidentiality of tax return information made available to it under Federal-State cooperative exchange programs.

The State or Federal tax officials, as appropriate, having custody of tax return data made available to them under this agreement -- whether in hard copy, photocopy, magnetic tape or other form -- shall take all steps necessary to insure that the safeguard measures established for protecting its confidentiality are carried out. These measures include establishing and maintaining a secure area or place in which the return or return information exchanged shall be stored, restricting access to the return or return information only to those officials and employees having a need for access to such return or return information, and providing such other safeguards as are deemed necessary or appropriate or as may be reasonably requested by the party furnishing the information.

Processing of Federal tax return information on the magnetic tape file (including tape reformatting or reproduction, or conversion to punch cards or hard copy printout) will be performed only under the immediate supervision and control of authorized employees of the State tax authority, in a manner which will protect the confidentiality of the information on the file.


The State agrees that it will destroy copies of Federal returns or return information in its possession after they have served their purpose.

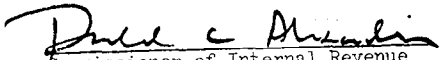
The Governor hereby designates the Tax Commissioner of Ohio to be responsible for maintaining the safeguards necessary to preserve the confidentiality of Federal tax return information in the hands of State, and if applicable, local tax authorities, and for maintaining the list of local tax officials to whom information is furnished.

10. Termination, or Modification, of Agreement -- The provisions of this agreement are subject to the provisions of the Internal Revenue Code and Regulations, and to the provisions of State statutes and regulations, and this agreement may be terminated or modified at the discretion of the Commissioner or of the Governor on account of changes in Federal or State statutes and regulations or whenever in the administration of Federal or State tax laws that action seems appropriate.

Any unauthorized use or disclosure of tax returns or data therefrom furnished pursuant to this agreement, or inadequate procedures for safeguarding the confidentiality of such returns or data, also constitutes grounds for the immediate termination of this agreement and the exchange of information thereunder.

APPROVED:


Governor of the State of Ohio


Commissioner of Internal Revenue

Signed at Columbus, Ohio
this 19th day of June, 1975.

Signed at Washington, D. C., this
20th day of March, 1975.

ATTACHMENT 2
INTERNAL REVENUE SERVICE MANUAL SUPPLEMENT

June 23, 1977

Information Gathering GuidelinesSection 1. Purpose

.01 This Supplement implements Policy Statement P-1-1 (Approved 6-23-75), attached, and provides guidelines for the gathering of information that may be solicited, obtained and retained for use by Service personnel as background material prior to the assignment of a case for collection, examination or investigation.

.02 These guidelines are not intended to alter in any way the gathering, solicitation and documentation of tax related facts and evidence necessary in developing cases that have been assigned for collection of taxes, examination or investigation of a tax liability.

Section 2. Background

.01 Compliance with the tax laws which the Service is authorized and directed to enforce cannot be determined solely by reference to the information on returns and documents filed with the Service. Therefore, the Service must obtain information from outside sources for the effective administration of the tax laws.

.02 Information gathering activities which were suspended by telegram to All Regional Commissioners on January 22, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 91RDD-7, CR 41RDD-18 and 51RDD-20 and 71RDD-1) and by telegram to All Regional Commissioners, District Directors and Service Center Directors on February 7, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22, and 71G-3) may be resumed in accordance with the guidelines and definitions set out in this Manual Supplement.

Section 3. Record Retention and Destruction

.01 No information documents of any type presently on hand or hereafter acquired in the Service concerning Intelligence Information Gathering, Joint Compliance Program, Coordinated Compliance Projects and Returns Compliance Program will be destroyed until the Senate Select Committee and all other official reviewing bodies complete their investigations of intelligence activities carried out by or on behalf of the Federal Government. The suspension of destruction procedures does not preclude use of such information for civil or criminal tax administration purposes, provided such use does not include destruction. Instructions concerning records disposition will be issued as soon as the investigations are completed.

.02 District Directors will ensure that documents and information relating to or arising from information gathering activities (including projects and programs), whether solicited or unsolicited, which are not necessary to the administration of the tax laws and do not indicate a violation of a Federal law enforced by another agency will be segregated and placed in a separate storage area with access limited to Division Chiefs. To the extent practicable, the data should be filed according to taxpayer name. An index of all documents from the discontinued Information Gathering and Retrieval System should be retained. These records may be transmitted to the Federal Records Center, or destroyed in accordance with IRM 1(15)59, when the Congressional investigations specified in Section 3.01 are concluded.

.03 Directly tax related documents (defined in Section 4) remaining after the review specified in Section 3.02 shall be maintained in accordance with the provisions of these guidelines.

Section 4. Definitions

.01 The term "directly tax related information" means only documents, statements, facts and testimony which reasonably relate to or aid in determining the correct tax liability of the taxpayer. Noncompliance may be indicated by such information as:

- 1 Personal expenditures or investments not commensurate with known income and assets;
- 2 Receipt of unreported income;
- 3 Overstatement of itemized deductions, business expenses, cost of sales, tax credits, etc.;
- 4 Improper deduction of capital or personal and living expenses;
- 5 Failure to file required returns or pay tax due;
- 6 Omission of assets or improper deduction or exclusion of items from estate and gift tax returns;
- 7 Violations of conditions and requirements relating to tax exempt status of organizations;
- 8 Improper operation of a qualified employee plan and trust; or
- 9 Other actions substantially similar to 1-8 above.

.02 The above factors do not stand alone, but should be considered in light of the taxpayer's occupation, prior accumulation of wealth and data shown on tax returns and the results of prior examinations or investigations. Prudent judgment must be exercised in making the decision whether types of information in 4.011-4.019 are directly tax related.

.03 Documents and data relating to agents' daily activities, time reports and other case management and internal management documents are not considered to be background material or taxpayer related information and may be retained for management purposes.

.04 The following definitions of other terms apply to these guidelines:

1 A "case" is an accumulation of facts concerning a taxpayer, which are segregated and associated with the taxpayer's name and evaluated for potential assignment to an employee for appropriate action.

2 An "assigned case" is a case that has been assigned to an employee or group of employees for action and that is subject to a requirement for a written report or an entry in a log indicating the action taken when the case is completed.

3 A "case file" is the accumulated notes, documentation and information assembled as a result of Service inquiries of and about a taxpayer which contains the taxpayer's name or identifying number or symbol assigned to the taxpayer.

4. An "informant's communication" is a communication from anyone outside the Service, written or oral, voluntarily submitted to the Service identifying one or more taxpayers and providing some information about the taxpayer. The informant may be anonymous.

Section 4 -- Contd.

5 A "project" is a study, survey or canvassing activity involving a limited number of taxpayers within such categories as an occupation, an industry, a geographic area or those involved in a specific economic activity, undertaken to identify noncompliance with the tax laws.

Section 5. Broad Service Guidelines Governing All Functions (Except Inspection)

.01 District employees are encouraged to continue to be alert for indications of tax noncompliance which come to their attention. Audit, Collection, EP/EO and Intelligence employees will report such information as provided in their respective sections of this Supplement. All other employees will report such information via memorandum through channels to the Chief, Intelligence Staff at the appropriate Service Center.

.02 Indications of noncompliance identified by Service Center, Regional and National Office employees will be forwarded to the Chief, Intelligence Staff at the appropriate Service Center.

.03 Information received by Service employees, which indicates a violation of a Federal law enforced by another agency, will be forwarded through channels to the Director, Intelligence Division, for forwarding subject to disclosure provisions, to the appropriate agency. (Reference IRM 9382.4).

.04 No employee shall maintain background or historical files on taxpayers except where such files are an integral part of the case file pertaining to a currently assigned case, unless specifically authorized to gather information as provided in Section 8.03.

.05 Employees assigned to a project involving information gathering must ensure that all information received is included within the project files.

.06 Employees assigned to projects or individual information gathering may obtain information from sources outside the Service for purposes of verifying the filing of required returns, payment of tax, exempt status, proper reporting of income, deductions or credits, or otherwise determining compliance with the tax laws. However, the information obtained must be directly tax related and necessary to the administration of the tax laws. (See Sections 4.01 and 4.02).

.07 The Information Index System will be used whenever it is necessary to index information.

.08 Any employee who receives information concerning Service employee misconduct will forward the information directly to Inspection.

.09 Informants' communications will be forwarded to the Chief, Intelligence Division for transmittal to the Chief, Intelligence Staff at the appropriate Service Center. The informants' communications will be evaluated by appropriate personnel at the Service Centers.

.10 Informants' communications concerning violations of other Federal laws will be forwarded by the Chief, Intelligence Staff, subject to disclosure provisions, to the appropriate agency.

.11 Information received which is not directly tax related and does not indicate a violation of other Federal laws will be segregated and stored, as provided in Section 3, for disposition when instructions are issued.

Section 6. Responsibilities

.01 Assistant Commissioners will provide for an annual review of each region's information gathering activities as a part of the National Office Review Program (NORP) to ensure compliance with Service policy and these guidelines.

.02 Regional Commissioners will provide for a review of each district's information gathering activities in their semi-annual visitations to the districts to ensure compliance with Service policy and these guidelines.

.03 District Directors are responsible for the approval of all district information gathering projects. While the Chief, Intelligence Division may authorize information gathering on specific taxpayers outside the scope of projects as and to the extent provided in Section 8.03, the District Director shall provide for quarterly reviews of all information gathering activities on projects and specific taxpayers, to ensure compliance with Service policy and these guidelines.

.04 Each employee is responsible, in the interest of safeguarding taxpayer privacy, for ensuring that information other than that necessary for the administration or enforcement of the tax laws is not solicited, indexed or associated with the name or other identifying symbol of a taxpayer. (See Section 3.02 for the disposition of any such information described therein as may be or may have been received.)

Section 7. Initiation of Projects to Determine Taxpayer Compliance

.01 Projects, as defined in Section 4.045, must be authorized in writing by the Assistant Commissioner, Regional Commissioner or the District Director. Authority to initiate projects may not be redelegated.

.02 Authorizations for projects must state the purposes and define the scope of the project. Project activities may include obtaining and analyzing data from sources outside the Service, but only information meeting the requirement of Section 4 may be sought, obtained, indexed and analyzed. Authorizations must also specify the estimated life of the project and specifically state what type of information is to be indexed.

Section 8. Intelligence Division Procedures

.01 The Intelligence Information Gathering and Retrieval System (IRM 9390) is discontinued. All districts will utilize the Information Index System, which will be described in a separate Manual Transmittal, to file and index directly tax related information. Such tax related information now in the discontinued Information Gathering and Retrieval System may be retained in district files and indexed only if it relates to a taxpayer included in an authorized project or for whom the Chief, Intelligence Division, has authorized information gathering.

.02 Where authorized by an Assistant Commissioner, a Regional Commissioner, or a District Director, projects, as defined in Section 4.045, may be initiated for the purpose of identifying taxpayers involved in tax evasion or other criminal violations of the Internal Revenue Code. The authorization for a project may identify one or more taxpayers at the outset for information gathering activity and additional taxpayers may be identified as the project progresses. Immediately upon termination of the information gathering phase of the project any information not associated with the case file of a taxpayer must be removed from the Information Index System and destroyed unless it relates to a taxpayer for whom information gathering has been specifically authorized by the Chief as provided in Section 8.03. (Note, however, that Section 3.01 prohibits destruction pending the completion of certain inquiries. Information removed will be stored in the district until this suspension is released.)

Section 8 -- Contd.

.03 In addition to project information gathering, the Chief, Intelligence Division, may authorize individual employees to obtain information on a specific taxpayer who is or appears to be involved in activities which have tax significance for purposes of making a decision as to whether or not to initiate an investigation. This authority may not be redelegated. The Chief's authorization must be made in advance of the information gathering activity. Only information or data directly related to administration of the tax laws which the Service is authorized and directed to enforce will be solicited or indexed, as specified in Sections 4.01 and 4.02. The Chief, Intelligence Division, may authorize only information gathering activities which relate to a taxpayer of interest to that district. The district's interest may be the result of the taxpayer filing returns in the district, residing in the district or having a principal business or other economic activity in the district. In the event the interest of another district becomes apparent, the Chief will coordinate with the other district or districts to establish which district has the principal interest. That district will, thereafter, control information gathered and coordinate information gathering activity relating to that taxpayer.

.04 When the Chief, Intelligence Division, approves the gathering of information relative to a specific taxpayer (described in Section 8.03) the Information Index System will be used to index the information. The authorization of the Chief must be in writing and must specify the known or assumed identity of the taxpayer and the reason information gathering has been authorized. The written authorization will be indexed.

.05 Information gathered pursuant to Section 8.03 will be maintained at the location specified by the Chief, Intelligence Division. The information may be maintained in the custody of the employee authorized to gather the information. The employee will be responsible for preparing the necessary forms to enter the authorization and each item of information gathered in the index.

.06 The Chief, Intelligence Division or Assistant Chief will conduct quarterly reviews of samples of information gathered and entered into the Information Index System to ensure that only directly tax related information is being retained and indexed and that information no longer needed by the Service is being removed from the Information Index System to be destroyed or retired to the Federal Records Centers. A written record of the quarterly reviews will be submitted to the District Director who will review them.

.07 Information obtained during the course of an assigned project or investigation indicating a violation of a Federal law enforced by another agency will be forwarded to the Director, Intelligence Division for transmittal to the appropriate agency in accordance with the disclosure provisions (Reference IRM 9382.4) and the Privacy Act when effective.

.08 Information in the Information Index System may not be retained in the System for a period longer than six years except that, with the approval of the Chief, Intelligence Division, specific information may be retained for a longer period if it has continuing material significance to a taxpayer's tax affairs. Information in the System will be removed and associated with the taxpayer's case file when a case is assigned. All other information removed from the System will either be destroyed, or retired to the Federal Records Center, in accordance with the provisions of IRM 1(15)59, Records Control Schedule 207, Intelligence-Regional and District offices when the restrictions in Section 3 have been rescinded.

.09 Intelligence employees who learn of indications of tax noncompliance will report information on Form 3949 or, if authorization to gather information is being requested, by memorandum, through appropriate management channels, to the Chief, Intelligence Division.

.10 Special Enforcement files are eliminated. The National Register is discontinued and Forms 4860, National Register Input Form, will no longer be prepared.

Section 9. Audit Division Procedures

.01 All Audit employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly tax related information is sought. Employees will not maintain any individual files or background information on taxpayers other than project files which they have been specifically authorized to maintain by the District Director.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by Audit employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by Audit employees will be forwarded with Form 4298, Audit Requisition and Information Report, to the Returns Program Manager for processing. Group Managers will ensure that only directly tax related information is forwarded. Information indicating a violation of a Federal law enforced by another agency will be forwarded through channels to the Director, Intelligence Division for transmittal to the appropriate agency subject to disclosure provisions.

.04 All Forms 4298 not selected by the RPM will be batched and sent to the Service Center Files Management Unit for association with the returns. All Forms 4298 selected by the RPM will be handled as provided in IRM 4175 and will remain with the tax return upon disposition by Audit.

.05 Information received indicating noncompliance by a large number of taxpayers should be forwarded through channels to the Chief, Audit Division, and as appropriate, to the District Director, the Assistant Regional Commissioner (Audit) or Director, Audit Division, for consideration and appropriate action.

.06 Joint Compliance, Coordinated Compliance and similar programs will continue. Projects now in progress will be completed and new projects may be initiated if approved by Assistant Commissioners, Regional Commissioners or the District Director. The provisions of this Supplement do not change program reporting requirements on retention or indexing of information. Care should be exercised to ensure that only directly tax related information is sought.

.07 Information necessary for the determination of comparable sales prices, appropriate intercompany pricing practices, allocation of income and expenses, useful life of assets and similar data necessary to sustain Service positions on valuation and costs allocation matters may be obtained and retained for use as reference material. Such material is to be used by examiners in arriving at timely, fair and reasonable determinations and is not to be indexed and associated with the name or other identifying symbol of a taxpayer.

.08 The historical files used in the Large Case Program are considered a part of the case file.

Section 10. Collection Procedures

.01 The Collection function will continue on-going activities in the Returns Compliance Program area. New programs initiated at the National, regional or local levels will require the approval of the Assistant Commissioner, Regional Commissioner or District Director, respectively. Returns Compliance Programs may involve obtaining lists of tax-

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payers' names and addresses and other general information which identifies groups of taxpayers who are probably required to file particular tax returns. Other types of Returns Compliance Programs may involve direct contact with individual taxpayers to assure compliance with specific filing requirements. Employees will not maintain any individual files or background information on taxpayers.

.02 Only directly tax related information will be obtained in the Returns Compliance Program.

.03 Information gathered for the purpose of generating Returns Compliance Program leads is normally retained for a relatively brief period until this purpose has been accomplished, and then destroyed as soon as permitted under Section 3.02.

.04 Returns Compliance leads assigned for field follow up will be considered as "assigned cases" and, as such, come under the exclusions in Section 1.02.

.05 Collection employees who learn of indication of tax noncompliance will report the information to Audit or EP/EO on Form 3449, Referral Report. If potential fraud is indicated, the information will be reported to Intelligence on Form 3949, Intelligence Information Item, unless the referral resulted from an assigned case where Form 3212, Referral Report, will be used. Information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division.

.06 Actions that are deemed necessary to verify the current compliance of previously delinquent taxpayers or taxpayers for whom the Service believes such verification is necessary, will be considered delinquency prevention actions. Such actions will be considered assigned cases and will be documented as outlined in 4.042.

Section 11. Employee Plans and Exempt Organizations Procedures

.01 All EP/EO employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly related information is sought. Employees will not maintain any files or background information on taxpayers or organizations.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division, on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by EP/EO employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by EP/EO employees will be forwarded with Form 4298 to the Chief, EP/EO Division, for processing. Group Managers will ensure that only directly tax related information is forwarded. Any information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division for appropriate disposition pursuant to Section 5.

.04 The Chief, EP/EO Division, or an appropriate designee, will promptly screen all Forms 3949 and 4298 received. Forms 4298 not involving exempt organizations, exempt status of an organization or employee plans will be forwarded to the Returns Program Manager, Audit Division, for the district office servicing the principal place of business of the taxpayer. If it is determined an exempt organization or employee plan return is to be secured, the return will be requested from the service center and the information associated with the return. If the return does not warrant selection for examination because of prior

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year returns, workload capacity or other factors, the Form 4298 and return will be sent back to the service center. However, if the information relates to a taxable period for which no return is due or one for which the organization does not have to file a return, such Form 4298 will be placed in a suspense file until the return is filed and secured, or until the accumulated information warrants compliance action. Any instances of apparent failure to file will be referred to the Collection function.

.05 Projects as defined in Section 4.045 may be initiated when authorized by an Assistant Commissioner, the Regional Commissioner or by the key District Director. Care should be exercised to ensure that only directly tax related information is sought.

.06 Reports, comments or exchanged information required under the Employee Retirement Income Security Act of 1974 (Public Law 93-406) are not considered informants' communications.

.07 The historical files used in National Office Controlled cases in the Exempt Organization Program are considered a part of the case file. Similarly, the administrative files of employee plans and exempt organizations which contain information, such as application for recognition of exempt status, determination letters issued and workpapers from prior examinations, are considered as part of the case file.

Section 12. Effect on Other Documents

.01 This supersedes Manual Supplement 91RDD-7, CR 41RDD-18, 51RDD-20 and 71RDD-1, dated January 31, 1975 and Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3, dated February 20, 1975 and Amendment 1 thereto. Annotations made at IRM 42(14)0, 4568, 5(12)40, 9311, 9330 and 9390 referring to Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3 should be removed.

.02 This amends and supplements IRM 4175, 42(14)0, 4568, 4569, 5(12)40, 6100 (to be issued), 7100 (to be issued), 9311, 9330, and 9413. This "effect" should be annotated by pen and ink beside the text cited with a reference to this Supplement.

.03 This supersedes IRM 9390 which will be revised and reissued as soon as possible.

Donald C. Alexander
Commissioner

Attachment

Attachment to MS 330-152, CR 1(15)G-91, 41G-105, 42G-328, 45G-231, 51G-118, 5(12)G-25, 61G-3, 71G-9, 91G-33 and 94G-57

P-1-1 (Approved 6-23-75)

Mission of the Service

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to conduct itself so as to warrant the highest degree of public confidence in its integrity and efficiency. The Service should advise the public of its rights and responsibilities, determine the extent of compliance and the causes of noncompliance, and do all things needed for proper administration and enforcement of the tax laws.

Programs and facilities to be established to accomplish Service mission

In order to fulfill this mission, the Service must establish programs and facilities for receiving and processing returns, for collecting all taxes due, for auditing, for detecting fraud and delinquency, for hearing and adjudicating appeals, for providing taxpayer assistance and information, for recruiting persons with a professional outlook and maximizing their ability to perform through training in both the ethical and professional aspects of their jobs, for developing evaluation methods designed to measure these aspects, for the uniform interpretation and application of the tax laws, for the preparation of regulations and tax guide materials, for clarification and simplification of tax rules, for maintaining the integrity of the Service and its efficient operation, and for performing such other duties as may be required by laws and regulations.

Taxpayer privacy will be safeguarded in the acquisition and use of information

Since compliance with Internal Revenue laws cannot be determined solely with reference to information on returns and documents filed with the Service, the Service will obtain information from outside sources. However, only information necessary for the enforcement and administration of the tax laws which the Service is authorized and directed to enforce will be sought. To safeguard taxpayer privacy, any information received by the Service, other than that described in this paragraph, will not be indexed or associated with the name or identifying symbol of a taxpayer. No disclosure of information will be made except as provided by law.

Approved by:

Donald C. Alumbaugh
Commissioner

Date:

Jun 23, 1975

