

Disclosure of Federal Tax Return Information to Congressional Committees

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Section 6103 of the *Internal Revenue Code* establishes that federal tax returns and return information are confidential unless a statute expressly authorizes disclosure. Congress has established some exceptions to this general proscription. One such exception, Section 6103(f), provides authorization for congressional committees to acquire tax return information.

The process by which a congressional committee can acquire tax return information and the scope of allowable use of the information depends on the committee. The congressional committees with jurisdiction over federal taxes—the House Ways and Means Committee, Senate Finance Committee, and Joint Committee on Taxation—have fewer procedural requirements and restrictions on uses than other committees. This report describes the procedural requirements for congressional committees to acquire tax return information and the restrictions on the committees’ subsequent use of the information. This report also provides historical examples of congressional committees’ requests for tax return information. Lastly, this report outlines the Internal Revenue Service’s guidance and procedures for handling requests for tax return information from congressional committees.

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Background

In 1976, Congress amended Section 6103 of the *Internal Revenue Code* (I.R.C.) to establish that federal tax returns and return information are confidential by default unless a statute expressly authorizes their disclosure.¹ Congress made these changes in part to curtail the President's authority to acquire tax return information in response to revelations that President Richard Nixon sought to use tax return information for improper purposes.² Specifically, Section 6103(a) states that individual and business tax returns, and the information in tax returns, are confidential, and officers or employees of the federal government, among others, may not disseminate those returns or the information in them for unauthorized purposes without the taxpayer's consent.³ Confidentiality of tax return information is enforced by, among other things, criminal punishment and civil liability.⁴

Congress has established or retained some exceptions to this general proscription against disclosing taxpayer information, including exceptions for certain disclosures by taxpayer consent and for use in legitimate tax administration, criminal proceedings, audits conducted by the Government Accountability Office, and child support enforcement activities.⁵ One such exception—in Section 6103(f)—allows congressional committees to acquire tax return information.⁶ Congress originally provided this authority in 1924 in part to address perceived difficulties in acquiring tax information during congressional investigations into the Harding Administration's Teapot Dome scandal.⁷

This report describes the procedural requirements for congressional committees to acquire tax return information and the restrictions on their uses of the information. The process by which a congressional committee can acquire tax return information and the subsequent use of the information by the committee depends on the committee. The congressional committees with jurisdiction over federal taxes—the House Ways and Means Committee, Senate Finance Committee, and Joint Committee on Taxation (hereinafter referred to as the “tax committees”)—face fewer procedural requirements and restrictions on uses than other committees. This report also identifies historical examples of requests for tax return information by congressional committees. Lastly, this report describes how the Internal Revenue Service (IRS) handles requests for tax return information from congressional committees.

¹ Tax Reform Act of 1976, Pub. L. No. 94-455, tit. XII, § 1202, 90 Stat. 1520, 1667. The *Internal Revenue Code* is codified in Title 26 of the *U.S. Code*.

² STAFF OF THE J. COMM. ON TAX'N, 116TH CONG., BACKGROUND REGARDING THE CONFIDENTIALITY AND DISCLOSURE OF FEDERAL TAX RETURNS SCHEDULED FOR A PUBLIC HEARING BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS 4-5 (Comm. Print 2019) (“[I]nquiries during the 1970s brought out allegations regarding impropriety on the part of the White House regarding return information. . . . The 1976 Act eliminated executive branch control over access to returns and return information and replaced it with a statutory regime governing disclosure.”); George Yin, *Preventing Congressional Violations of Taxpayer Privacy*, 69 TAX LAW. 103, 129 (2015).

³ I.R.C. § 6103(a).

⁴ *Id.* §§ 7213, 7431; 18 U.S.C. § 1905.

⁵ I.R.C. § 6103(a), (c)–(o). For more information about the child support enforcement exception, see CRS Insight IN11748, *Overview of Child Support Enforcement (CSE) Access to Taxpayer Data and Recent Legislation (Title II of H.R. 9076)*, by Jessica Tollestrup (2024).

⁶ I.R.C. § 6103(f).

⁷ Yin, *supra* note 2, at 121–22, 128.

Tax Return Information⁸

Under I.R.C. Section 6103, tax return information is confidential by default. Section 6103(b)(1) defines “return” to include, among other things, a tax return filed with the IRS, including schedules and attachments filed with the return. Section 6103(b)(2)(A) defines “return information” to include, among other things, “a taxpayer’s identity,⁹ the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, . . . or tax payments.”

The I.R.C. explicitly identifies two categories of tax return information that can be disclosed to congressional committees under Section 6103(f):¹⁰

- wagering (i.e., gambling) tax information;¹¹ and
- applications for tax exemption by organizations and certain employee benefits plans, and notices of status of political organizations.¹²

Congressional committees need not utilize Section 6103(f) procedures to request IRS documents that do not contain tax return information, such as reports from the Treasury Inspector General for Tax Administration, statistical studies, and statistical information in an anonymous form.¹³

Presidential Tax Return Information

Section 6103 of the I.R.C. does not require special treatment of the confidentiality of the tax return information of the United States President or presidential candidates.¹⁴ While not required by law, over the past 50 years most Presidents and major party presidential nominees have publicly released their personal income tax returns voluntarily, although the number of tax years

⁸ While the I.R.C. has separate definitions for “return” and “return information,” these terms are collectively addressed as “tax return information” in this report. I.R.C. § 6103(b).

⁹ While a taxpayer’s identity is perhaps most commonly thought of as “return information” in need of confidentiality, “‘return information’ remains such even when it does not identify a particular taxpayer.” *Church of Scientology of California v. IRS*, 484 U.S. 9, 15 (1987). In other words, information can be return information even if the information cannot be used to identify a particular taxpayer. A taxpayer’s identity and information that can identify a particular taxpayer is a subset of return information entitled to heightened confidentiality under Section 6103, as explained below. *See, e.g.*, I.R.C. § 6103(f)(1), (2), (4).

¹⁰ These explicit categories of tax return information are available to any congressional committee subject to the procedural limits described later in this report. *See infra* “Disclosure to Tax Committees” and “Disclosure to Non-Tax Committees.”

¹¹ I.R.C. § 4424.

¹² *Id.* § 6104(a)(2). Some of this information is available to the public under I.R.C. Section 6104. Section 6104(a)(2) allows congressional committees to request information not available to the public but in IRS possession. IRM 11.3.4.5(1) (05-20-2005). For more information about reporting requirements of tax-exempt organizations and what information is publicly available, *see* CRS Report RL33377, *Tax-Exempt Organizations Under Internal Revenue Code Section 501(c): Political Activity Restrictions*, by Justin C. Chung (2024).

¹³ I.R.C. §§ 6103(b)(2) (Return information “does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer”), 6108; IRM 11.3.4.8 (05-20-2005). “Statistical information in an anonymous form” could be, for example, aggregated data from tax return information that does not identify particular taxpayers as the source of the data. Rev. Proc. 22-29, 2022-33 I.R.B. 141 (2022). Thus, a sum of certain taxpayers’ income would be statistical information, while the discrete income amounts making up the sum would be return information, even if one cannot identify a taxpayer from a particular income amount.

¹⁴ *See* I.R.C. § 6103. Still, the Supreme Court has articulated special restrictions and considerations regarding Congress’s ability to acquire the President’s personal papers via subpoena, out of concern for the separation of powers. *See generally* *Trump v. Mazars USA*, 591 U.S. 848 (2020). *See also* CRS Legal Sidebar LSB10517, *Trump v. Mazars: Implications for Congressional Oversight*, by Todd Garvey (2020).

released and the completeness of the tax return information released has varied.¹⁵ On occasion, when a President has either not released any tax return information or released only some information, congressional committees have requested that the IRS release the President's tax return information to the committee, some of which the committees have subsequently released to the public.¹⁶

While Section 6103 does not treat presidential tax returns differently from other returns for the purposes of confidentiality, the IRS's internal guidelines for its employees—the Internal Revenue Manual (IRM)—specifically provides for the processing of presidential tax returns, including that “[i]ndividual tax returns for the President . . . are subject to mandatory examinations [i.e., audits].”¹⁷ The IRM does not specify which tax years are subject to audit, how long the audit lasts, or what is to be examined.¹⁸ “This Presidential Audit Program is a creature of IRS regulations and is not required or governed by statute.”¹⁹

Disclosure to Tax Committees

The three tax committees, which have jurisdiction over federal taxes, are the

1. House Ways and Means Committee,
2. Senate Finance Committee, and
3. Joint Committee on Taxation (JCT).²⁰

Under I.R.C. Section 6103(f), the tax committees have fewer procedural requirements to obtain tax return information and fewer restrictions on uses of that information than other congressional committees.

For a tax committee to obtain tax return information from the IRS, the chairman of the committee may submit a written request for disclosure of the information to the committee.²¹ A committee vote authorizing the chairman's request is not required.²² For the JCT only, the Committee's Chief

¹⁵ STAFF OF THE J. COMM. ON TAX'N, 116TH CONG., BACKGROUND REGARDING THE CONFIDENTIALITY AND DISCLOSURE OF FEDERAL TAX RETURNS SCHEDULED FOR A PUBLIC HEARING BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS App'x A (Comm. Print 2019) (Congressional Research Service Report of Tax Return Disclosure by Candidates for President and Vice President, a memorandum identifying individual income tax returns disclosed by Presidents and Vice Presidents while candidates for office); Joseph J. Thorndike, *Tax History: From Nixon to Trump: A Short History of Voluntary Tax Disclosure*, 162 TAX NOTES 612, 612 (2019).

¹⁶ See, e.g., Press Release, Richard Neal, Chairman, Committee on Ways and Means, U.S. House of Representatives, Neal Statement on Requesting President Trump's Tax Returns (April 3, 2019), <https://neal.house.gov/news/documentsingle.aspx?DocumentID=2073>; see, e.g., Neal Asks IRS to Provide 6 Years of Trump's Tax Returns, TAX NOTES (Apr. 3, 2019), <https://www.taxnotes.com/research/federal/legislative-documents/congressional-tax-correspondence/neal-asks-irs-to-provide-6-years-of-trumps-tax/29bbk?>; see 120 CONG. REC. 9564 (1974) (Staff Report on President Nixon's Tax Returns); see also S. REP. 93-768 (1974).

¹⁷ IRM 3.28.3.5.3(1) (11-17-2020); see also IRM 4.2.1.15(1) (04-23-2014).

¹⁸ IRM 3.28.3.5.3 (11-17-2020). The IRM states that “[a]ll relevant IRM procedures will apply to these [presidential] return examinations.” IRM 3.28.3.5.3(3)(d) (11-17-2020). “Related returns [of the President], including estate and gift tax returns, will be handled in accordance with procedures relating to all taxpayers.” IRM 4.2.1.15(6) (04-23-2014). “The [presidential] returns require expeditious handling at all levels to ensure prompt completion of the examinations.” IRM 4.2.1.15(5) (04-23-2014).

¹⁹ Comm. on Ways & Means, U.S. H.R. v. U.S. Dep't of Treasury, 45 F.4th 324, 328 (D.C. Cir. 2022).

²⁰ The JCT is composed of ten Members: five Members each from the House Ways and Means Committee and Senate Finance Committee. I.R.C. § 8002.

²¹ *Id.* § 6103(f)(1).

²² *Comm. on Ways & Means*, 45 F.4th at 330 (“[T]he Chair of the Committee is authorized by statute to request the information on his own without a committee vote.”).

of Staff may submit the written request, but the subsequent disclosure made is limited to the Chief of Staff, who can then share the tax return information with any of the tax committees, pursuant to certain caveats.²³ Tax return information obtained by the JCT can be submitted to the other tax committees.²⁴ The statute does not provide the ability for the House Ways and Means Committee or Senate Finance Committee to submit tax return information obtained by them to other committees, including to another tax committee.²⁵

While the House Ways and Means Committee and Senate Finance Committee lack the ability to submit information they obtain to other committees, any of the tax committees can submit the obtained tax return information to the full House of Representatives or Senate, or both.²⁶ As such submission does not require the House or Senate to be sitting in closed executive session, the submission power, in effect, amounts to the power to publicize tax return information.²⁷ In addition to the submission power, tax committees have publicly released tax return information with the consent of the taxpayer.²⁸

Tax committees may also receive return information from whistleblowers who have or had access to tax return information if the whistleblower “believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.”²⁹ Additionally, the JCT may request or receive tax return information outside of the process delineated in Section 6103(f). The IRS is required to submit tax return information to the JCT pursuant to the JCT’s obligation to review proposed tax refunds in excess of certain amounts.³⁰ The JCT or its Chief of Staff may also obtain tax return information to use in making investigations, reports, and studies relating to the IRS’s administration of taxes.³¹

Any disclosure of identifiable returns³² to a tax committee from a Section 6103(f) request must be furnished to the committee in closed executive session, unless the relevant taxpayer consents in

²³ I.R.C. § 6103(f)(2).

²⁴ *Id.* § 6103(f)(4)(A).

²⁵ *Id.*

²⁶ *Id.* § 6103(f)(4)(A).

²⁷ *Id.* Section 6103(f) does not have any textual limitations to the tax committees’ submission to the House or Senate. Previous versions of Section 6103(f) limited disclosures to the chambers to those that were either “relevant or useful,” but those limitations were removed when Congress amended the statute in 1976. Yin, *supra* note 2, at 119. Additionally, non-tax committees are more restricted in their ability to disclose and may submit identifiable returns only to the full House or Senate sitting in closed executive session. I.R.C. § 6103(f)(4)(B). At least one commentator has argued that the authority of the tax committees to submit tax return information to the House and the Senate should, at a minimum, be subject to the “legislative purpose” test. Yin, *supra* note 2, at 118–136. For more information about the legislative purpose requirement, see *infra* “The Legislative Purpose Requirement.”

²⁸ See, e.g., STAFF OF J. COMM. ON TAX’N, 108TH CONG., REPORT OF INVESTIGATION OF ENRON CORPORATION AND RELATED ENTITIES REGARDING FEDERAL TAX AND COMPENSATION ISSUES, AND POLICY RECOMMENDATIONS, VOL. I: REPORT (Comm. Print 2003) (“The disclosure agreement set forth the terms and conditions under which Enron agreed to the public disclosure of information collected by the Senate Finance Committee and the Joint Committee.”). Taxpayer consent is another exception to tax return information confidentiality. I.R.C. § 6103(c). As publications of tax return information by taxpayer consent and submission to the House or Senate are authorized disclosures, they are not punishable by penalties for unauthorized disclosures. *Id.* §§ 6103(c), (f)(4); 7213, 7431.

²⁹ *Id.* § 6103(f)(5). The whistleblower provision was added by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, § 3708, 112 Stat. 685.

³⁰ I.R.C. § 6405.

³¹ *Id.* § 8023. According to the IRM, I.R.C. Section 8023 is used only for overall analysis of tax administration, not for disclosures of tax return information on a particular taxpayer. IRM 11.3.4.7 (05-20-2005).

³² “Identifiable returns” in this report refers to “any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.” I.R.C. §§ 6103(f)(1), (f)(2), (f)(4)(A), (f)(4)(B).

writing.³³ Identifiable returns include actual identity information (e.g., taxpayer’s name, identification number) and information that can be used to identify a taxpayer (e.g., a taxpayer’s address).³⁴

Either the chairman or Chief of Staff of the tax committee can designate an unlimited number of examiners or agents to inspect the tax return information that the committee requests.³⁵ Designated examiners and agents can be, for example, the Government Accountability Office (GAO)³⁶ or committee staff.³⁷ An agent of the committee may inspect tax return information outside of the committee, either in lieu of or prior to receiving a copy of the records, in the presence of an IRS employee.³⁸

Section 6103(f) does not require congressional committees to publicly disclose their requests for tax return information.³⁹ However, some requests can be ascertained by references to them in the congressional record or when the tax return information is publicly released. Requests for tax return information by congressional committees typically “seek statistical data to inform” tax policy.⁴⁰ Routine requests for statistical data may not generate sufficient public interest for the request to be discussed on record.

Examples of Requests from Tax Committees⁴¹

- **2019–2022:** The House Ways and Means Committee requested tax return information of President Trump and various business entities related to President Trump.⁴² The Committee received the return information in 2022 after litigation in the D.C. Circuit,⁴³ as further discussed below, and subsequently publicly released it.⁴⁴

³³ *Id.* §§ 6103(f)(1), (f)(2), (f)(4)(A).

³⁴ *Id.* §§ 6103(f)(1), (f)(2), (f)(4)(A), (f)(4)(B).

³⁵ *Id.* § 6103(f)(4)(A).

³⁶ IRM 11.3.4.3.1(4) (05-20-2005) (“For example, the tax writing committees often designate certain Government Accountability Office persons to act as agents of these committees for the purpose of conducting particular studies of IRS activities.”); IRM 11.3.23.1.1(1) (12-26-2017). GAO can potentially receive tax return information under other exceptions such as the one in I.R.C. Section 6103(i)(8) for auditing certain government agencies.

³⁷ IRM 11.3.4.3.1(4) (05-20-2005).

³⁸ IRM 11.3.4.4(5) (09-25-2020).

³⁹ I.R.C. § 6103(f); *see also* Comm. on Ways & Means U.S. H.R. v. U.S. v. Dep’t of the Treas., 575 F. Supp. 3d 53, 60 (D.D.C. 2021), *aff’d sub nom.* Comm. on Ways & Means, U.S. H.R. v. U.S. Dept. of Treas., 45 F.4th 324 (“Congressional requests under § 6103(f) rarely reach the public eye.”).

⁴⁰ Cong. Comm.’s Request for the President’s Tax Returns Under 26 U.S.C. § 6103(f), 43 Op. O.L.C., slip op. at 6 (June 13, 2019) (citing Letter from Steven T. Mnuchin, Secretary of the Treasury, to Richard E. Neal, Chairman, Committee on Ways and Means, U.S. House of Representatives 1 (Apr. 23, 2019)); STAFF OF THE J. COMM. ON TAX’N, 116TH CONG., REP. ON DISCLOSURE REP. FOR PUBLIC INSPECTION PURSUANT TO I.R.C. SECTION 6103(P)(3)(C) FOR CALENDAR YEAR 2018, at 3 (Comm. Print 2019).

⁴¹ CRS Law Librarian Andrea Muto contributed to this subsection.

⁴² Press Release, Richard Neal, Chairman, Committee on Ways and Means, U.S. House of Representatives, Neal Statement on Requesting President Trump’s Tax Returns (April 3, 2019), <https://neal.house.gov/news/documentsingle.aspx?DocumentID=2073>; TAX NOTES *supra* note 16.

⁴³ *Comm. on Ways & Means*, 45 F.4th at 324 (holding that the request had a valid legislative purpose). Rehearing *en banc* was denied. *Comm. on Ways & Means, U.S. H.R. v. U.S. Dep’t of the Treasury*, No. 21-5289, 2022 WL 15524456 (D.C. Cir. Oct. 27, 2022). For more discussion on the litigation, *see infra* “The Legislative Purpose Requirement” and “Separation of Powers Considerations for Presidential Tax Return Information.”

⁴⁴ *Ways and Means Announces Vote to Release Trump’s Tax Returns*, TAX NOTES (Dec. 20, 2022), (continued...)

- **2019:** The Senate Finance Committee obtained records of tax-exempt hospitals as part of an investigation into whether such hospitals were complying with the statutory requirements for their tax-exempt status.⁴⁵
- **2013–2015:** The Senate Finance Committee obtained and disclosed tax records as part of its investigation into IRS treatment of applications for tax-exempt status by political advocacy organizations.⁴⁶
- **2013–2014:** The House Ways and Means Committee obtained tax records during an investigation into allegations of the IRS’s targeting of tax-exempt organizations based on their political views and disclosed information obtained in a referral for criminal prosecution to the Attorney General.⁴⁷
- **2006:** The Senate Finance Committee obtained tax records of oil and gas companies as part of a review of their payment of federal taxes.⁴⁸
- **2006:** The Senate Finance Committee obtained tax records of the Association of Community Organizations for Reform Now as part of an investigation into allegations that the organization was involved in voter fraud.⁴⁹
- **2002–2004:** The Senate Finance Committee and the JCT obtained and publicly disclosed tax return information of Enron Corporation when investigating financial abuses and the company’s collapse.⁵⁰
- **1973–1974:** The JCT received tax information from the IRS as part of its examination of President Nixon’s tax returns.⁵¹

<https://www.taxnotes.com/research/federal/legislative-documents/congressional-news-releases/ways-and-means-announces-vote-to-release-trumps-tax-returns/7fhg2?>; Moira Warburton & Andy Sullivan, *U.S. House Committee to Release Redacted Trump Tax Filings*, REUTERS (Dec. 21, 2022, 4:08 AM), <https://www.reuters.com/world/us/us-house-democrats-decide-whether-release-trumps-tax-information-2022-12-20/>.

⁴⁵ Press Release, U.S. Senate Committee on Finance, Grassley Renews Probe of Non-Profit, Tax-Exempt Hospitals (Feb. 25, 2019), <https://www.finance.senate.gov/chairmans-news/grassley-renews-probe-of-non-profit-tax-exempt-hospitals>. For more information about requirements of tax-exempt hospitals, see CRS Report R48027, *Legal Requirements for Section 501(c)(3) Hospitals*, by Edward C. Liu (2024).

⁴⁶ S. REPT. 114-119, at 13–14 (2015); Letter from Leonard Oursler, National Director for Legislative Affairs, Department of Treasury, Internal Revenue Service, to Ron Wyden, Chairman, Senate Committee on Finance, and Orrin Hatch, Ranking Member, Senate Committee on Finance (June, 13, 2014), <https://www.irs.gov/pub/newsroom/IRS%20Letter%20to%20Senate%20Finance%20Committee.pdf>.

⁴⁷ H. REPT. 113-414 (2014).

⁴⁸ Press Release, U.S. Senate Committee on Finance, *Senators Call for Tax Information on Oil and Gas Companies* (Apr. 26, 2006), <https://www.finance.senate.gov/ranking-members-news/senators-call-for-tax-information-on-oil-and-gas-companies>.

⁴⁹ Press Release, U.S. Senate Committee on Finance, Finance Committee Tax Staff Review of ACORN Tax-Exempt Status (Sept. 22, 2009), <https://www.finance.senate.gov/ranking-members-news/finance-committee-tax-staff-review-of-acorn-tax-exempt-status>.

⁵⁰ STAFF OF THE J. COMM. ON TAX’N, 108TH CONG., REPORT OF INVESTIGATION OF ENRON CORPORATION AND RELATED ENTITIES REGARDING FEDERAL TAX AND COMPENSATION ISSUES, AND POLICY RECOMMENDATIONS, VOL. I: REPORT (Comm. Print 2003).

⁵¹ See 120 CONG. REC. 9564 (1974) (Staff Report on President Nixon’s Tax Returns); see also S. REPT. 93-768 (1974). While President Nixon voluntarily publicly released his tax returns for certain tax years, the IRS provided additional tax returns of President Nixon and other information.

Disclosure to Non-Tax Committees

Non-tax committees have more procedural requirements to obtain tax return information than the tax committees. Non-tax committees may receive tax return information only after the Senate or the House of Representatives authorizes the committee to inspect the information by resolution.⁵² In the case of a joint committee other than the JCT, the Senate and the House must make a concurrent resolution.⁵³ The authorizing resolution must specify the purpose for the inspection of the tax return information and must specify that such information cannot reasonably be obtained from any other source.⁵⁴ The IRS considers an authorizing resolution obtained by a committee of the House to be effective for the life of the Congress during which it was passed, unless the resolution itself specifies an earlier expiration date.⁵⁵ A resolution obtained by a Senate committee is considered effective indefinitely unless the resolution itself specifies an expiration date.⁵⁶

After the resolution, the authorized, non-tax committee must approve its chairman's request for tax return information, unlike the tax committees, which do not require committee authorization.⁵⁷ Then, the chairman of the authorized committee must submit a written request for the information to the relevant tax agency.⁵⁸ Unlike the tax committees, any tax return information—not just identifiable returns—must be furnished to the authorized committee in a closed executive session unless the taxpayer consents in writing.⁵⁹

A non-tax committee may submit tax return information to the full Senate or House of Representatives, or both, but identifiable returns may be submitted only when the House or Senate is sitting in closed executive session, unless such taxpayer consents in writing.⁶⁰ Thus, unlike the tax committees, the non-tax committees do not have the authority to publicize tax return information without taxpayer consent.⁶¹

A non-tax committee can designate up to four examiners or agents to inspect tax return information, with the chairman and ranking minority member designating an equal number of such agents.⁶²

As with the tax committees, Section 6103(f) does not require the non-tax committees to publicly disclose their requests for tax return information. However, because non-tax committees must be

⁵² I.R.C. § 6103(f)(3).

⁵³ *Id.* § 6103(f)(3).

⁵⁴ *Id.* § 6103(f)(3).

⁵⁵ IRM 11.3.4.3.3(1) (05-20-2005).

⁵⁶ *Id.*

⁵⁷ Compare I.R.C. § 6103(f)(1) and (f)(2) (“Upon written request . . .”) with § 6103(f)(3) (“Pursuant to an *action by*, and upon written request by the chairman of, a committee . . .”) (emphasis added). See also IRS, CHIEF COUNSEL, PROCEDURE & ADMINISTRATION, DISCLOSURE & PRIVACY LAW REFERENCE GUIDE, PUBL’N 4639, at 2–34 (Oct. 2012), <https://www.irs.gov/pub/irs-pdf/p4639.pdf>.

⁵⁸ I.R.C. § 6103(f)(3).

⁵⁹ *Id.* § 6103(f)(3). The IRM permits furnishing to a committee not in closed executive session if the taxpayer consents in writing, but that is not provided for in the statute. IRM 11.3.4.3(3) (05-20-2005). See also IRS, CHIEF COUNSEL, PROCEDURE & ADMINISTRATION, *supra* note 57, at 2–34.

⁶⁰ I.R.C. § 6103(f)(4)(B).

⁶¹ Compare I.R.C. § 6103(f)(4)(B) with § 6103(f)(4)(A).

⁶² *Id.* § 6103(f)(4)(B).

authorized by resolution to receive tax return information, such resolutions may be found in the congressional record.⁶³

Examples of Requests from Non-Tax Committees⁶⁴

- **1987:** The House Select Committee to Investigate Covert Arms Transactions with Iran obtained tax records related to participants of the transactions under investigation in the Iran-Contra affair.⁶⁵
- **1985–1986:** The Senate Permanent Subcommittee on Investigations obtained tax records as part of its investigation into whether the Department of Justice acted appropriately in declining to prosecute Jackie Presser, President of the International Brotherhood of Teamsters, for fraud.⁶⁶
- **1980:** The Senate Judiciary Committee’s Subcommittee to Investigate Activities of Individuals Representing the Interests of Foreign Governments obtained tax records related to Billy Carter—brother of President Carter—in an investigation into his dealings with Libya.⁶⁷

The Legislative Purpose Requirement

Although the authorizing resolution for a non-tax committee’s receipt of tax return information must specify the purpose for requesting the information,⁶⁸ Section 6103(f) of the I.R.C. does not have textual limitations on the purposes for which congressional committees can request tax return information. Nevertheless, congressional requests under Section 6103(f) follow the general principle of congressional investigations that they must serve a legitimate “legislative purpose,” which courts have also required in issuing congressional subpoenas⁶⁹ pursuant to Congress’s investigative authority outside of Section 6103(f) requests.⁷⁰ For example, during the litigation

⁶³ See, e.g., S. Res. 496, 96th Cong. (1979) (A resolution to authorize the inspection and receipt of tax records by a subcommittee of the Committee on the Judiciary).

⁶⁴ CRS Law Librarian Andrea Muto contributed to this subsection.

⁶⁵ S. REP. NO. 100-216, at 373–74, 674 (1987).

⁶⁶ *Department of Justice’s Handling of the Jackie Presser Ghostworkers Case: Hearing Before the Permanent Subcomm. on Investigations of the S. Comm. on Governmental Aff.*, 99th Cong. 121 (1986).

⁶⁷ *Inquiry into the Matter of Billy Carter and Libya: Hearings Before the Subcomm. to Investigate the Activities of Individuals Representing the Interest of Foreign Governments of the S. Committee on the Judiciary*, 96th Cong. 587–88 (1980) (statement of William “Billy” Carter); *Inquiry into the Matter of Billy Carter and Libya: Hearings Before the Subcomm. to Investigate the Activities of Individuals Representing the Interest of Foreign Governments of the S. Committee on the Judiciary*, 96th Cong. 1670–71 (1980). See S. Res. 496, 96th Cong. (1979).

⁶⁸ I.R.C. § 6103(f)(3).

⁶⁹ Congress can use subpoenas to request tax records possessed by private parties. See, e.g., *Trump v. Mazars USA*, 591 U.S. 848 (2020). “Return information” is specifically defined as “information . . . which is *filed with, or furnished to, the Secretary* by or on behalf of the taxpayer to whom the return information relates.” I.R.C. § 6103(b)(3) (emphasis added).

⁷⁰ *Comm. on Ways & Means, U.S. H.R. v. U.S. Dep’t of Treasury*, 45 F.4th 324, 328 (D.C. Cir. 2022) (“The case law concerning Congressional requests for information is confined almost entirely to information sought via a Congressional subpoena. . . . Those cases are not directly on point in this case where the vehicle for requesting information was created by a statute [I.R.C. § 6103(f)] passed by Congress and signed into law by the Executive. However, we see no reason that the case law shaping when and how Congress can request certain information via subpoena should not inform our analysis of Congress’s ability to do so via statute.”).

For more information about the legislative purpose requirement, see CRS Legal Sidebar LSB10301, *Legislative Purpose and Adviser Immunity in Congressional Investigations*, by Todd Garvey (2019) (“This ‘legislative purpose’ (continued...)”).

regarding the IRS's release of President Trump's tax returns to the House Ways and Means Committee, the contentious arguments over the Section 6103(f) power centered around *whether* the legislative purpose requirement was met, not *if* it applied at all.⁷¹ In that case, the U.S. Court of Appeals for the D.C. Circuit held that investigating the administration of the tax laws as they apply to a sitting President—including the Presidential Audit Program—was a legitimate legislative purpose.⁷² The court explained that it may look to resolutions from the committee, if any, and the chairman's written request⁷³ to determine legislative purpose.⁷⁴ However, the court held that the Constitution's Speech or Debate Clause⁷⁵ prohibited it from inquiring into a committee's ulterior motives and whether the stated purpose for the request was a pretext.⁷⁶ For supplemental or superseding requests, the court determined that it would look to the request at issue and not to prior similar requests.⁷⁷

Separation of Powers Considerations for Presidential Tax Return Information

Requests for presidential tax return information, including requests pursuant to I.R.C. Section 6103(f), may face additional judicial scrutiny based on separation of powers principles.⁷⁸ During the D.C. Circuit litigation regarding the IRS's release of President Trump's tax returns, each party argued that a different separation of powers test should apply to the facts of the case, partially due to the President's departure from office.⁷⁹ The court conducted an analysis using both parties' tests and determined that, under either test, Congress had a valid legislative purpose that outweighed separation of powers concerns.⁸⁰

1. **Nixon v. GSA.** The Committee proposed applying *Nixon v. GSA*, in which the Supreme Court held that “[o]nly where the potential for disruption [of the Executive Branch from its constitutional functions] is present must [a court] then

requirement is quite generous, permitting investigations into any topic upon which legislation could be had or over which Congress may properly exercise authority, including investigations undertaken by Congress to inform itself for purposes of determining how existing laws function or to determine whether new laws are necessary or old laws should be repealed or altered.”); CRS Legal Sidebar LSB10517, *Trump v. Mazars: Implications for Congressional Oversight*, by Todd Garvey (2020) (“[The legislative purpose requirement] is quite generous. Because Congress exercises authority over an immense range of subjects, the legislative purpose test has imposed only a handful of relatively narrow limitations on the topics appropriate for congressional investigation.”).

⁷¹ *Comm. on Ways & Means*, 45 F.4th 324 at 330–33.

⁷² *Id.* The court did not decide on a second purported purpose for the request: investigating a sitting President's conflicts of interest. *Id.* at 332. The court also held that I.R.C. Section 6103(f)(1) is not facially unconstitutional because it could be properly applied in numerous circumstances and that the U.S. Department of the Treasury's (Treasury Department's) compliance with the Section 6103(f) request did not violate the First Amendment. *Id.* at 340. The U.S. Supreme Court subsequently denied an application of stay to block the Treasury Department from disclosing the tax returns to the committee. *Trump v. Comm. on Ways & Means*, 143 S. Ct. 476 (2022) (mem.).

⁷³ Although the text of I.R.C. Section 6103(f) does not require the chairman to state a purpose in the written request, a requirement for a stated purpose can arguably be inferred because of the legislative purpose requirement and a court's inability to inquire into unstated purposes. *Comm. on Ways & Means*, 45 F.4th 324 at 331.

⁷⁴ *Comm. on Ways & Means*, 45 F.4th 324 at 331–32.

⁷⁵ U.S. CONST. art. 1, § 6, cl. 1.

⁷⁶ *Comm. on Ways & Means*, 45 F.4th at 331.

⁷⁷ *Id.* at 332.

⁷⁸ *Id.* at 333–341; *Mazars USA*, 591 U.S. at 866.

⁷⁹ *Comm. on Ways & Means*, 45 F.4th at 333.

⁸⁰ *Id.* at 333–34 (holding that because the request satisfied either test, the court need not decide which test applies).

determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress.”⁸¹ In applying the *Nixon v. GSA* test, the D.C. Circuit determined that “the Trump Parties [] failed to demonstrate a burden that would outweigh the Committee’s need for the requested information.”⁸²

2. **Trump v. Mazars USA.** President Trump asked the court to apply the four factors from *Trump v. Mazars USA*:⁸³
 - a. “[w]hether the asserted legislative purpose warrants the significant step of involving the President and his papers”;
 - b. whether the request is “no broader than necessary to support Congress’s legislative objective”;⁸⁴
 - c. whether Congress has offered “detailed and substantial evidence” to show the subpoena furthers a valid legislative purpose; and
 - d. whether the request burdens the President as Chief Executive.

The panel for the D.C. Circuit found that “neither burden, under any test, proves sufficient to require us to enjoin the Chairman’s Request for the returns and return information.”⁸⁵

Based on the D.C. Circuit opinion, it seems well established that courts will require an expressed valid legislative purpose when conflict arises from congressional requests for presidential tax return information. Further, the request will likely be required to be sufficiently tailored to achieve the legislative purpose to justify overriding presidential interests in nondisclosure.

IRS Processing of Congressional Tax Return Information Inquiries

The IRS advises congressional inquirers to be specific in their requests to expedite the identification of the requested records, such as by including with the written request “[i]dentifying information such as name, address, taxpayer identification number (Social Security Number or Employee Identification Number), taxable periods, kind of tax or description of documents.”⁸⁶ Congressional requesters can specify when and in what manner they wish to receive the tax information.⁸⁷ The IRS may contact congressional requesters as necessary for

⁸¹ 433 U.S. 425, 443 (1977).

⁸² *Comm. on Ways & Means*, 45 F.4th 324 at 335.

⁸³ 591 U.S. 848, 869–871 (2020). *Mazars* concerned congressional subpoenas to financial institutions for financial records of President Trump, including his tax returns. *Id.* at 854–56. For more information about *Mazars*, see CRS Legal Sidebar LSB10517, *Trump v. Mazars: Implications for Congressional Oversight*, by Todd Garvey (2020).

⁸⁴ The D.C. Circuit held that a request is not overly broad or burdensome just because it fails to ensure confidentiality. *Comm. on Ways & Means*, 45 F.4th 324 at 337, 339 (“A Congressional request for information does not need to ensure confidentiality to remain valid. . . . Congressional investigations sometimes expose the private information of the entities, organizations, and individuals that they investigate. This does not make them overly burdensome. It is the nature of the investigative and legislative processes.”).

⁸⁵ *Id.* at 339.

⁸⁶ IRM 11.3.4.3.1(2) (05-20-2005).

⁸⁷ *Id.* 11.3.4.3.1(3) (05-20-2005).

more information to fully and expeditiously respond to the request.⁸⁸ Furthermore, the IRS advises that it may provide interim responses or provide documents as they become available.⁸⁹

Pursuant to internal policy, the IRS Commissioner and Director of Legislative Affairs must be informed of any request for tax return information from a congressional committee.⁹⁰ Requests from a congressional committee receive high priority.⁹¹ Only certain delegated IRS officials, such as the National Taxpayer Advocate or the Director of Legislative Affairs,⁹² can approve the release of tax return information pursuant to I.R.C. Section 6103(f).⁹³ The Internal Revenue Service Restructuring and Reform Act of 1998 makes the willful concealment of information from a congressional inquiry under Section 6103(f) punishable by termination.⁹⁴ Furthermore, employees terminated for willful concealment cannot be rehired by the IRS.⁹⁵ Concealment by IRS employees could also constitute a crime.⁹⁶

The IRM has procedures to withhold certain information from congressional committees. Under the IRM, grand jury information may not be included in documents disclosed to congressional committees.⁹⁷ Further, only the tax committees may receive information exchanged subject to secrecy clauses in tax treaties between the United States and foreign governments; the IRS will not disclose such information to other congressional committees.⁹⁸

The IRM contains procedures to protect open investigations and the identity of informants. In the absence of approval from the Commissioner of the IRS, the following information is removed before disclosure:

- records that identify, directly or indirectly, an informant, unless the IRS has received a written waiver of confidentiality from the informant;⁹⁹ and
- open criminal investigation files or information which would reveal a law enforcement technique that, if released, would impair tax administration.¹⁰⁰

Records relating to cases that are under active investigation may be disclosed under the IRM if the IRS determines that no serious adverse effect on tax administration will result from the

⁸⁸ *Id.* 11.3.4.3.1(5) (05-20-2005).

⁸⁹ *Id.* 11.3.4.4(4), (6) (09-25-2020).

⁹⁰ *Id.* 11.3.4.4(1) (09-25-2020); *Id.* 13.1.10.3(4) (03-20-2023).

⁹¹ *Id.* 11.3.4.4(4) (09-25-2020).

⁹² *Id.* 1.2.2 Exhibit 1.2.2-2 Delegation Order 11-2 (Rev. 5), Reference Chart.

⁹³ *Id.* 13.1.10.3(2) (03-20-2023).

⁹⁴ Tax Reform Act of 1976, Pub. L. No. 94-455, tit. XII, § 1203(b)(7), 90 Stat. 1520, 1668 (1998). *See also* IRM 13.1.10.3(4) (03-20-2023).

⁹⁵ I.R.C. § 7804.

⁹⁶ *Id.* § 7214(a)(3); 2 U.S.C. § 192. *See also* Cong. Comm.'s Request for the President's Tax Returns Under 26 U.S.C. § 6103(f), 43 Op. O.L.C., slip op. at 21–22 (June 13, 2019).

⁹⁷ IRM 11.3.4.4(7) (09-25-2020). The withholdings of information discussed in this section may be based on notions of executive privilege. For more information about executive privilege, see CRS Report R47102, *Executive Privilege and Presidential Communications: Judicial Principles*, by Todd Garvey; and CRS Legal Sidebar LSB10271, *The Special Counsel's Report: Can Congress Get It?*, by Michael A. Foster and Todd Garvey.

⁹⁸ IRM 11.3.4.4(8) (09-25-2020). "In general, a treaty secrecy clause requires the country requesting information under the treaty to treat any information received as secret in the same manner as information obtained under its domestic laws." STAFF OF J. COMM. ON TAXATION, 108TH CONG., STUDY OF PRESENT-LAW TAXPAYER CONFIDENTIALITY AND DISCLOSURE PROVISIONS AS REQUIRED BY SECTION 3802 OF THE IRS RESTRUCTURING AND REFORM ACT OF 1998, VOL. I: STUDY OF GENERAL DISCLOSURE PROVISIONS (Comm. Print 2003).

⁹⁹ IRM 11.3.4.4(9)(a) (09-25-2020).

¹⁰⁰ *Id.* 11.3.4.4(9)(b) (09-25-2020).

disclosure.¹⁰¹ The IRM congressional committee will be advised if requested records relate to an active investigation, and the IRS will request that access to them be deferred until resolution of the investigation.¹⁰²

Considerations for Congress

Some aspects of the procedure and requirements for requests by congressional committees under I.R.C. Section 6103(f) are not explicit in the statutory text. For example, Section 6103(f) does not specify the required contents of a written request for tax return information. Further, much about the procedures IRS uses to process Section 6103(f) requests are found in the IRM, which is not mandatory or binding on the IRS.¹⁰³ Further still, agencies such as the Bureau of Alcohol, Tobacco, Firearms and Explosives are not governed by the IRM but might also possess tax return information that Congress might seek to request. Congress might consider amending Section 6103(f) to codify, add, or remove procedural requirements for requesting tax return information. Congress might also consider broadening or restricting uses of tax return information by congressional committees.

¹⁰¹ *Id.* 11.3.4.4(13) (09-25-2020).

¹⁰² *Id.* 11.3.4.4(13) (09-25-2020).

¹⁰³ *Fargo v. Comm’r*, 447 F.3d 706, 713 (9th Cir. 2006) (“The Internal Revenue Manual does not have the force of law.”); *Marks v. Comm’r*, 947 F.2d 983, 986 n.1 (D.C. Cir. 1991) (“It is well-settled . . . that the provisions of the [Internal Revenue M]anual are directory rather than mandatory, are not codified regulations, and clearly do not have the force and effect of law.”).

Table 1. Summary of Requirements for Disclosure of Federal Tax Return Information to Congressional Committees

	Tax Committees		Non-Tax Committees
	House Ways and Means, and Senate Finance	Joint Committee on Taxation (JCT)	
Requester	Chairman, I.R.C. § 6103(f)(1)	Chairman or Chief of Staff, ^a I.R.C. §§ 6103(f)(1), (2)	Chairman, after (1) specific authorization to the committee by Senate or House resolution ^b and (2) a committee action approving the request, I.R.C. § 6103(f)(3)
Limitations to committee inspection	Identifiable returns must be furnished in closed executive session, unless taxpayer consents in writing, I.R.C. § 6103(f)(1)	Identifiable returns must be furnished in closed executive session, unless taxpayer consents in writing, I.R.C. §§ 6103(f)(1), (2)	Any tax return information must be furnished in closed executive session, unless taxpayer consents in writing, I.R.C. § 6103(f)(3)
Inspection by agents of the committee	Designated by chairman or Chief of Staff, I.R.C. § 6103(f)(4)(A)	Designated by chairman or Chief of Staff, I.R.C. § 6103(f)(4)(A)	No more than four agents, designated by chairman and ranking member in equal number, I.R.C. § 6103(f)(4)(B)
Submission to Senate or House	Yes, I.R.C. § 6103(f)(4)(A)	Yes, I.R.C. § 6103(f)(4)(A)	Yes, identifiable returns must be furnished in closed executive session, unless taxpayer consents in writing, I.R.C. § 6103(f)(4)(B)
Submission to another committee	No, I.R.C. § 6103(f)(4)(A)	Only to another tax committee; identifiable returns must be furnished in closed executive session, unless taxpayer consents in writing, I.R.C. § 6103(f)(4)(A)	No, I.R.C. § 6103(f)(4)(B)
Whistleblower disclosure	Yes, including to authorized agents, I.R.C. § 6103(f)(5)	Yes, including to authorized agents, I.R.C. § 6103(f)(5)	No, I.R.C. § 6103(f)(5)

Notes:

- a. Disclosure on request of the Chief of Staff of the JCT is limited to the Chief of Staff, who can then share the tax return information with any of the tax committees. I.R.C. § 6103(f)(2).
- b. The resolution must specify the purpose for which a return or return information is to be furnished and affirm that such information cannot reasonably be obtained from any other source. In the case of a joint committee other than the JCT, the Senate and the House must make a concurrent resolution. I.R.C. § 6103(f)(3).

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