

We have been asked for our interpretation of the procedures contemplated by 26 U.S.C. 6103(f) which addresses the confidentiality and disclosure of tax return information. The pertinent parts of that section are as follows (with relevant language highlighted):

(4) AGENTS OF COMMITTEES AND SUBMISSION OF INFORMATION TO SENATE OR HOUSE OF REPRESENTATIVES

(A) COMMITTEES DESCRIBED IN PARAGRAPH (1)

Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) OTHER COMMITTEES

Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

26 U.S.C. 6103(f)(4)(A) specifically authorizes the Committee on Ways and Means to inspect tax returns or return information. That section also provides that the Committee may “submit” to the House said returns or return information. It uses the terms “chairman,” “the committee,” and “chief of staff” with great specificity – assigning clear roles to each entity. In order to meet the parliamentary requirements for a submission from a committee to the House under this statute, the Committee on Ways and Means must act collegially. Such collegiality could take the form of unanimous consent or vote of the committee.

The basic authority to submit returns to the House dates from at least 1924 and was formerly entitled: “Publicity of Returns.” A relevant precedent dates from April 3, 1974 when the Joint Committee on Taxation filed a report on President Nixon’s tax returns. On that occasion, Chairman Mills stated that under the law: “the committee cannot release information obtained [on] a return until a report has been filed with the Congress.”

Unlike tax return information obtained by other committees under section 6103(f)(4)(B), there is no requirement that the information from Ways and Means be submitted to the House while the House is “in closed executive session.” Therefore, upon transmittal to the House, the document will be given a House number. Unless otherwise ordered by the House, such document would become publically available and printed by the Government Printing Office.