

**Office of Chief Counsel
Internal Revenue Service
memorandum**

Number: **20244101F**

Release Date: 10/11/2024

CC:SB:9:OKL:JBBINGHAM:

GL-104768-24

UILC: 6103.00-00

date: May 06, 2024

to: Curtis R. Hoeltzel

from: Jessica B. Bingham
Attorney (Oklahoma City, Area #9)
(Small Business/Self-Employed)

subject: Taxpayer:
SSN/EIN:

DISCLOSURE STATEMENT

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views. This memorandum may not be used or cited as precedent.

ISSUE

Four issues are addressed in this formal advice: (1) whether sharing the partners' personal information that is included in the Appeals Referral Investigation ("ARI") for the partnership would create an issue with I.R.C. section 6103; (2) whether sharing the partners' personal information that is included in the ARI for the partnership would be a permissible disclosure under I.R.C. section 6103; (3) whether not sharing the full ARI results, due to redacting or removing information due to disclosure concerns, would violate the Internal Revenue Manual ("I.R.M."); and (4) what information can be shared by Appeals with the taxpayer partnership.

SUMMARY OF CONCLUSION

If the partner's personal information that would be disclosed to the partnership was received from outside of the IRS as part of the partnership proceeding, then it is the partnership's return information; there is not an I.R.C. section 6103 problem with disclosing the partnership's return information to the partnership. If the partner's personal information that would be disclosed to the partnership was not received from outside of the IRS as part of the partnership proceeding, then the partner's personal information may be disclosed only as allowed by I.R.C. section 6103. Furthermore, the I.R.M. would not be violated by not sharing the full ARI results if the withheld information consisted of personal information of the partners that was not received from outside of the IRS as part of the partnership proceeding, and disclosure of the information was not authorized by I.R.C. section 6103.

Finally, Appeals' ability to share information is potentially limited by I.R.C. section 6103. If the partner's personal information that would be disclosed to the partnership was received from outside of the IRS as part of the partnership proceeding, then it is the partnership's return information; there is not an I.R.C. section 6103 problem with disclosing the partnership's return information to the partnership. If the partner's personal information that would be disclosed to the partnership was not received from outside of the IRS as part of the partnership proceeding, then the partner's personal information may be disclosed only as allowed by I.R.C. section 6103.

FACTS AND ANALYSIS

The following facts were taken from the request for advice via memorandum on March 12, 2024. In a collection due process partnership case, the requested resolution was a currently not collectible entity. An ARI was opened to Collection, and Collection agreed that the Business Master File was currently not collectible. However, because the entity was a partnership, Collection determined that the partners needed to be investigated, and a collection determination on each partner needed to be made. Upon completion, Collection determined that each partner had some collectability, and the ARI should not be closed as a defunct entity until Collection had exhausted the partners' collectability. Significantly, the partnership ARI contained personal information of each partner and their collectability.

As previously mentioned, Collection completed an ARI, which included investigating the partners of the partnership. Pursuant to I.R.M. section 8.23.3.4.1.4(8), the ARI results should be shared with the taxpayer. Even though the ARI results include information about the partners, the partnership is the taxpayer in this case. I.R.C. section 6103(e)(1)(C) provides that in the case of a partnership return, the return may be open to inspection or disclosed to "any person who was a member of such partnership during any part of the period covered by the return" upon written request. Another section of the I.R.M., section 11.3.2.4.2, provides that returns and return information of a partnership may be disclosed to any person who was a member of the partnership during any part of the period covered by the return. Thus, according to

I.R.C. section 6103 and the I.R.M., the taxpayer partnership should receive the ARI results, and the partnership is authorized to receive the partnership return and return information that is contained in the ARI results.

However, to the extent that the ARI contains personal partner return and return information, there must be a determination of whether disclosing the partner's personal information would create a problem with I.R.C. section 6103, and whether the disclosure is permissible.

If the personal information of the partner that would be disclosed to the partnership was received from outside of the IRS as part of the partnership proceeding, then it is the partnership's return information; there is not an I.R.C. section 6103 problem disclosing the partnership's return information to the partnership. If the personal information of the partner that would be disclosed to the partnership was not received from outside of the IRS as part of the partnership proceeding, then the information may be disclosed only as allowed by I.R.C. section 6103.

There are numerous subsections of I.R.C. section 6103 that serve as exceptions to the confidentiality requirement in I.R.C. section 6103(a), and one or more of these subsections could potentially apply to allow disclosure of the partners' personal information in this case. While I.R.C. section 6103(e)(1)(C) provides for disclosing the partnership's return to the partners, I.R.C. section 6103(e)(1)(C) does not provide for the disclosure of a partner's return or return information to a partnership. *Casa Investors, Ltd. V. Gibbs*, No. CIV. 88-2485, 1990 WL 180703, at *5 (D.D.C. Oct. 11, 1990). Nevertheless, as previously noted, one or more of the subsections in I.R.C. section 6103 could potentially allow for the disclosure of the partners' personal information.

Restricting or sanitizing the ARI in order to comply with I.R.C. section 6103 would not result in failing to provide the ARI results to the taxpayer, the partnership. As previously noted, the ARI results should be shared with the taxpayer pursuant to I.R.M. section 8.23.3.4.1.4(8). However, I.R.M. section 11.3.2.4.2 provides a citation to an exhibit that contains detailed guidance about information that can be released to partners seeking access to a partnership return, including schedules that must be restricted or sanitized prior to release. Additionally, I.R.M. section 11.3.2.4.2 provides that any information in transcript form or in administrative files that may include other third-party information extracted from or attached to Form 1065 must also be evaluated in accordance with IRC 6103(e)(10). Even though this I.R.M. section does not specifically mention third-party information in an ARI, the intent underlying this I.R.M. section is to comply with the requirements of I.R.C. section 6103 by restricting or sanitizing documents. Consequently, restricting or sanitizing the ARI in order to comply with I.R.C. section 6103 would not result in failing to provide the ARI results to the taxpayer, the partnership, as required by I.R.M. 8.23.3.4.1.4(8).

CONCLUSION

If the partner's personal information that would be disclosed to the partnership was received from outside of the IRS as part of the partnership proceeding, then it is the partnership's return information; there is not an I.R.C. section 6103 problem with disclosing the partnership's return information to the partnership. If the partner's personal information that would be disclosed to the partnership was not received from outside of the IRS as part of the partnership proceeding, then the partner's personal information may be disclosed only as allowed by I.R.C. section 6103. Secondly, the I.R.M. would not be violated by not sharing the full ARI results if the withheld information was the partner's personal information, consisted of information that was not received from outside of the IRS as part of the partnership proceeding, and did not fall under an exception for disclosure under I.R.C. section 6103.

Finally, Appeals ability to share information is potentially limited by I.R.C. section 6103. If the partner's personal information that would be disclosed to the partnership was received from outside of the IRS as part of the partnership proceeding, then it is the partnership's return information; there is not an I.R.C. section 6103 problem with disclosing the partnership's return information to the partnership. If the partner's personal information that would be disclosed to the partnership was not received from outside of the IRS as part of the partnership proceeding, then the partner's personal information may be disclosed only as allowed by I.R.C. section 6103.

We are closing our file on this matter. Please contact me via email or at 405-982-6741 if you have additional questions.

VICKI L. MILLER
Area Counsel
(Small Business/Self-Employed: Area 9)

By: _____
JESSICA B. BINGHAM
Attorney (Oklahoma City, Area #9)
(Small Business/Self-Employed)