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§ 601.701 Publicity of information.

(a) *General.* Section 552 of title 5 of the United States Code, as amended, prescribes rules regarding the publicizing of information by Federal agencies. Generally, such section divides agency information into three major categories and provides methods by which each category is to be made available to the public. The three major categories, for which the disclosure requirements of the Internal Revenue Service are set forth in § 601.702, are as follows:

(1) Information required to be published in the FEDERAL REGISTER:

(2) Information required to be made available for public inspection and copying or, in the alternative, to be published and offered for sale; and

(3) Information required to be made available to any member of the public upon specific request.

The provisions of section 552 (Freedom of Information Act) are intended to assure the right of the public to information. Section 552 is not authority to withhold information from Congress. Subject only to the exemptions set forth in paragraph (b) of this section, the public generally or any member thereof shall be afforded access to information or records in the possession of the Internal Revenue Service. Such access shall be governed by the regulations in this subpart and those in 31 CFR Part 1 (relating to disclosure of Treasury Department records).

(b) *Exemptions*—(1) *In general.* Under 5 U.S.C. 552(b), the disclosure requirements of section 552(a), do not apply to certain matters which are:

(i) (A) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(ii) Related solely to the internal personnel rules and practices of the Internal Revenue Service which communicate to Internal Revenue Service personnel information or instructions relating to (A) enforcement tolerances and criteria with respect to the allocation of resources, (B) criteria for determining whether or not a case merits further enforcement action, (C) enforcement tactics, including but not limited to investigative techniques, internal security information, protection of identities of confidential sources of information used by the Service, and techniques for evaluating, litigating, and negotiating cases of possible violations of civil or criminal laws, or (D) use of parking facilities, regulation of lunch hours, statements of policy as to sick leave and the like;

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld (e.g., I.R.C. sections 6103, 6110, and 4424);

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intraagency memorandums or letters which would not routinely be available by law to a party other than an agency in litigation with the agency, including communications (such as internal drafts, memorandums between officials or agencies, opinions and interpretations prepared by agency staff personnel or consultants for the use of the agency, and records of the deliberations of the agency or staff groups) (A) which the Internal revenue Service has received from another agency, (B) which the Internal Revenue Service generates in the process of issuing an order, decision, ruling or regulation, drafting proposed legislation, or otherwise carrying out its functions and responsibilities or (C) which is the attorney work product of the Office of the Chief Counsel or is generated by that Office as attorney for the Internal Revenue Service;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory records compiled for law enforcement purposes, including records prepared in connection with civil, criminal or administrative Government litigation and adjudicative proceedings, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a

right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and in the case of a record compiled by a criminal investigation, or by an agency conducting a lawful national security intellegence investigation, confidential information furnished only by confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2) *Application of exemptions.* Even though an exemption described in subparagraph (1) of this paragraph may be fully applicable to a matter in a particular case, the Internal Revenue Service may, if not precluded by law, elect under the circumstances of that case not to apply the exemption to such matter. The fact that the exemption is not applied by the Service in that particular case has no precedential significance as to the application of the exemption to such matter in other cases but is merely an indication that in the particular case involved the Service finds no compelling necessity for applying the exemption to such matter.

(3) *Segregable portions of records.* Any reasonably segregable portion of a record shall be provided to any person making a request for such record, after deletion of the portions which are exempt under 5 U.S.C. 552(b) (see paragraph (b)(1) of this section). The term ''reasonably segregable portion'' as used in this subparagraph means any portion of the record requested which is not exempt from disclosure under 5 U.S.C. 552(b), and which, after deletion of the exempt material, still conveys meaningful information which is not misleading.

[32 FR 15990, Nov. 22, 1967, as amended at 34 FR 6433, Apr. 12, 1969; 38 FR 4973, Feb. 23, 1973; 41 FR 19937, May 14, 1976; 41 FR 24704, June 18, 1976; 41 FR 48742, Nov. 5, 1976; 45 FR 7259, Feb. 1, 1980]

§ 601.702 Publication and public inspection.

(a) *Publication in the Federal Register*—(1) *Requirement.* Subject to the application of the exemptions described in paragraph (b)(1) of § 601.701 and subject to the limitations provided in subparagraph (2) of this paragraph, the Internal Revenue Service is required under 5 U.S.C. 552(a)(1) to separately state and currently publish in the FEDERAL REGISTER for the guidance of the public the following information:

(i) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions, from the Service;

(ii) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures which are available;

(iii) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(iv) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Service; and

(v) Each amendment, revision, or repeal of matters referred to in subdivisions (i) through (iv) of this subparagraph.

Pursuant to the foregoing requirements, the Commissioner publishes in the FEDERAL REGISTER from time to time a statement, which is not codified in this chapter, on the organization and functions of the Internal Revenue Service, and such amendments as are