

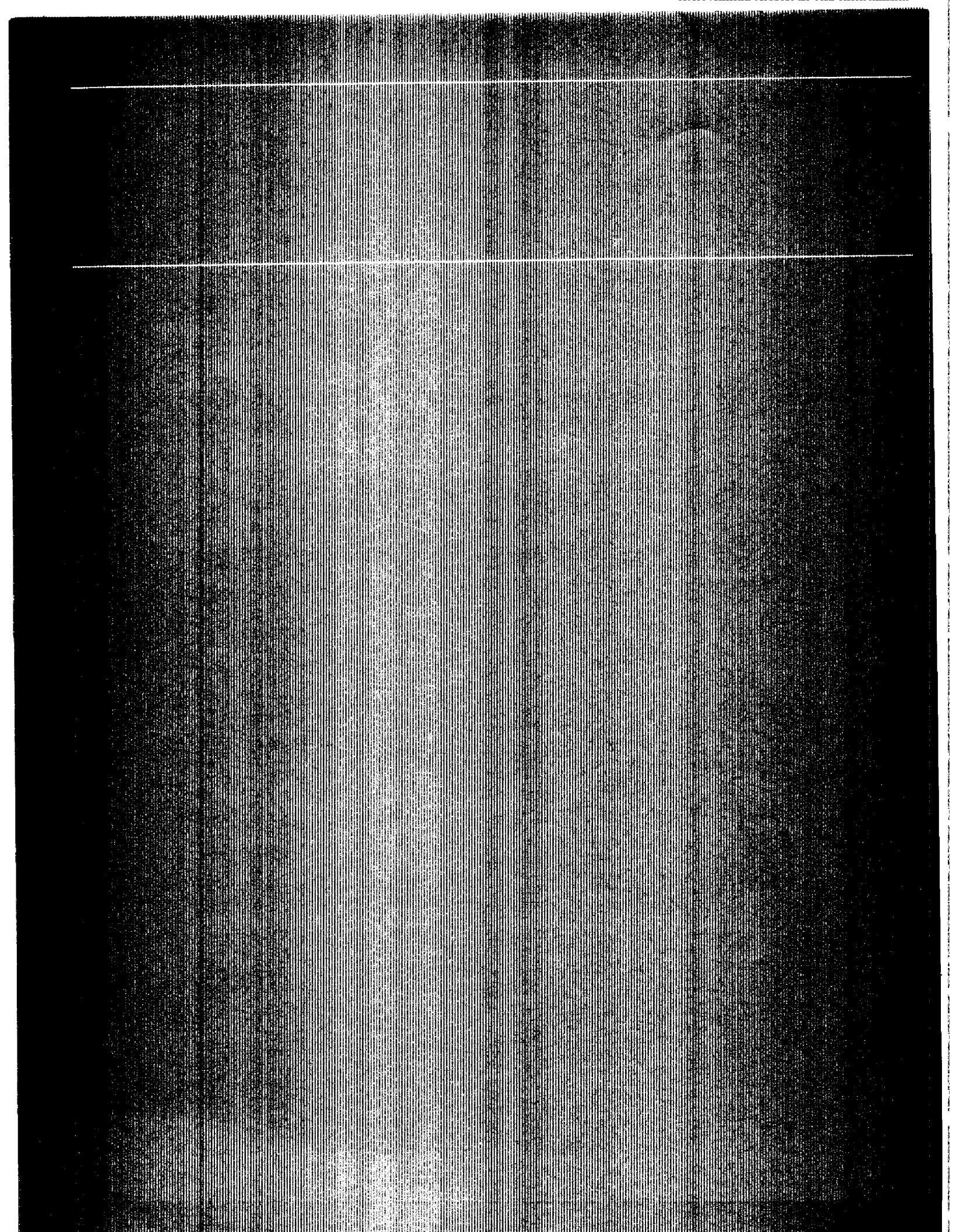
United States General Accounting Office

General Government Division

GAO

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GAO Audits: Access to Tax Information



Preface

One of the primary missions of the General Accounting Office (GAO) is to assist the Congress in carrying out its legislative and oversight responsibilities by auditing federal agencies' programs and activities. GAO has statutory authority to conduct its audits, including specific authority to audit the Internal Revenue Service (IRS). Generally, GAO also has the authority to examine tax returns and return-related information when auditing IRS and certain programs or activities of other federal agencies. To conduct some audits, such as those involving IRS' international tax activities, GAO needs access to information provided by foreign governments to IRS under the exchange-of-information provisions of tax treaties. All tax treaties ratified since 1981 by the U.S. Senate have provided for GAO's access to this information.

This document provides basic information about GAO's access to and use of tax returns and return-related information, both domestic and foreign, during our audits. The information in this document should assure treaty partners that GAO will protect the confidentiality of tax treaty information. The U.S. statutory procedures and restrictions that apply to our obtaining, using, reporting, handling, and maintaining the confidentiality of domestic tax information also apply to tax treaty information. We are subject to the same criminal and civil sanctions as IRS for unauthorized disclosure of tax information.

This document briefly describes GAO's background and explains our general audit authority, our specific authority to audit IRS, and our procedures for safeguarding the confidentiality of tax information, both domestic and foreign. The appendixes give detailed information on statutes governing our audits, statutes governing our access to tax returns and return-related information, and our policies and procedures for carrying out audits involving access to tax information.

Charles A. Bowsher

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Comptroller General
of the United States

GAO Audits: Access to Tax Information

Background

GAO was created by the Budget and Accounting Act of 1921 as an independent, nonpartisan agency of the U.S. federal government. One of GAO's major roles is to help the U.S. Congress oversee government operations by auditing federal agencies, programs, and activities.

GAO initiates some of its audits on the basis of a work-planning process that considers several factors, including congressional interest, program impact, and opportunities for improvement. GAO initiates other audits at the request of congressional committees, subcommittees, or members. GAO's audits develop objective and reliable information about agency activities that can be used to help the government operate more economically, efficiently, and effectively. Typically, GAO seeks to determine whether

- federal programs are achieving their objectives,
- alternative ways exist to accomplish program objectives at lower costs,
- opportunities exist to eliminate wasteful or inefficient use of public money, and/or
- federal funds are being spent legally and accounted for properly.

When a GAO audit indicates that a government program or activity can be improved, GAO recommends ways to effect needed improvements. Recommendations addressed to the Congress or its committees generally propose legislation to improve government programs. Recommendations addressed to federal agency heads generally propose administrative actions to improve agency operations. Although GAO's audit role is advisory, its recommendations influence many congressional and agency decisions involving the funding and operations of government. (See app. I for more information on GAO's mission and enabling legislation.)

GAO Audit Authority

Various statutes give GAO broad authority to audit all matters relating to federal funds. To conduct these audits, GAO is also authorized to examine the records of the agency being audited.

In addition to this broad audit authority, GAO has specific statutory authority to audit IRS and the Bureau of Alcohol, Tobacco and Firearms (BATF). GAO may undertake audits involving access to tax information at IRS or BATF either on its own initiative (after first notifying the Joint Committee on Taxation) or as a duly designated agent of any congressional committee that has access to tax information. Generally, the committees with access to tax information are the tax-writing committees: the Senate Finance Committee, the House Committee on Ways and

Means, and the Joint Committee on Taxation. During these audits, GAO has the statutory authority to examine all records and property belonging to or used by IRS and BATF. This authority specifically includes access to tax returns and return-related information.

Further, when acting as an agent of one of these same committees, GAO's authority to examine tax information extends to audits of agencies other than IRS and BATF. For example, GAO was designated an agent of the House Committee on Ways and Means in July 1981 to audit Social Security Administration programs for which income information is used to determine eligibility and payment amounts. As the Committee's agent, GAO had access to tax information for those audits.

GAO also has access to tax information when auditing (1) any agency's programs or activities for which that agency has obtained tax information and (2) certain agencies' programs or activities, identified by statute, for which those agencies are authorized to obtain tax information but have not yet done so. However, GAO must first notify the Joint Committee on Taxation of the subject matter of the audit and GAO's plans for examining tax information. The Joint Committee on Taxation can disapprove GAO's proposed examination of tax information within 30 days of notification. After GAO completes such an audit, it must report to the Joint Committee on Taxation (1) how the agency uses tax information, (2) any recommendations GAO made concerning the agency's use of tax information, and (3) the effect of those recommendations on the confidentiality of tax information.

While GAO's statutory audit authority extends to IRS' international activities, its access to tax information exchanged between IRS and tax treaty partners is governed by individual tax treaties. Nevertheless, GAO's methods for using and safeguarding both domestic and foreign tax information are the same. (The statutes that govern GAO's audit and access-to-records authority are discussed in app. I and II.)

GAO's Use of Tax Information

Through audits of IRS programs and activities, GAO seeks to determine whether IRS is administering the tax laws in an economical, efficient, and effective manner. In conducting these audits, GAO also addresses the broader concern of public confidence in the administration of U.S. tax laws. GAO believes that public confidence is dependent on the extent to which taxpayers are treated fairly, operations are conducted properly, and tax returns are kept confidential.

To determine how well IRS is administering a particular program or activity, GAO often must examine tax returns and return-related tax information. The identity of particular taxpayers is not a factor in selecting returns for review; rather, GAO selects for review a random sample of returns that falls within a particular IRS program or that contains information pertinent to the audit. For example, for one audit, GAO selected a random sample of 222 illegal tax protester cases from a universe of 4,192 cases in three IRS districts to determine the nature and extent of the tax protest problem and to evaluate IRS' efforts to deal with that problem.

Moreover, GAO is prohibited by statute from reporting the results of its examinations of returns in a way that could result in the identification of any specific taxpayer. Thus, GAO reports the results of its work in the aggregate or in another manner that ensures that specific taxpayers are not identified. Furthermore, GAO's recommendations almost invariably suggest ways to improve tax administration activities in the future; they in no way affect IRS' authority to make final determinations in specific tax cases.

A typical example of how GAO uses tax information in its audit work is GAO's review of IRS' efforts to collect delinquent taxes. In carrying out this audit, GAO analyzed tax information to determine if installment agreements constituted an efficient and effective means for collecting overdue taxes. GAO examined 609 randomly selected cases from an IRS list of 11,101 installment agreements in four IRS districts and reported the results of its examination in the aggregate. Specifically, GAO reported that, overall, 35 percent of the taxpayers missed one or more tax payments but only 2 percent of the taxpayers who used payroll deductions to pay the installments defaulted on the payments. Therefore, GAO recommended that, in the future, IRS place more emphasis on the use of payroll deductions as a means to collect monthly installment payments.

In another audit, GAO analyzed tax information and recommended a legislative change that should result in quicker collection of taxes through either more timely payments by taxpayers or faster identification of delinquent taxpayers by IRS. During this audit, GAO reviewed all delinquent employment tax accounts closed by five IRS district offices during a 1-week period. From its review of these accounts, GAO reported that 31 percent of the accounts involved fictitious claims by the taxpayer that the tax had been deposited in a federal bank account. These claims delayed IRS collection actions an average of 64 days. In response to GAO recommendations, the Congress passed legislation requiring a 25-percent

penalty for fictitious deposits claimed by employers. This legislation should significantly reduce the number of such claims in the future.

By reporting the results of its audits in this manner, GAO identifies areas in which the tax administration system can be improved while protecting the confidentiality of the tax information it examines.

Safeguarding Confidentiality

The confidentiality of tax returns and return-related information is closely protected by U.S. statutes, which also provide criminal and civil penalties for unauthorized disclosure. GAO's authority to disclose tax information in a form that identifies a particular taxpayer, either directly or indirectly, is extremely limited. GAO is prohibited by statute from disclosing tax information that would identify a taxpayer to the public without the taxpayer's written consent. In fact, GAO may only disclose tax information to a congressional committee that has access to that information and then only when acting as a duly designated agent of that committee. Also, such disclosures can only be made when the committee is sitting in closed executive session. Significantly, none of the committees for which GAO has acted as an agent has ever asked GAO to disclose such tax information. When it is not acting as an agent of a committee, GAO may not disclose identifiable tax information even if that information is requested by a committee or member of the Congress.

To further ensure that tax information is kept confidential and avoid unauthorized disclosures, U.S. statutes require that those who receive tax information from IRS or other agencies establish appropriate safeguards. GAO's safeguards, which have been approved by the Secretary of the Treasury, include the following:

- GAO maintains a permanent system of standardized records of its requests for tax information, including the reasons for and dates of such requests and any disclosure of tax information made by or to GAO.
- GAO stores tax information in a secure place while working with it.
- GAO restricts access to tax information solely to people whose duties or responsibilities require such access.
- GAO makes periodic reports to the Secretary of the Treasury on the procedures used to safeguard the confidentiality of tax information.
- When GAO has completed its work with tax information on a particular assignment, it returns the information to IRS or destroys it in accordance with IRS' prescribed procedures.

The Secretary of the Treasury is required to report any deficiencies in GAO's safeguard procedures to the congressional committees responsible for oversight of the tax laws. Also, should GAO not adequately carry out any of these requirements, the Secretary may refuse to disclose further tax information to it.

The Congress oversees GAO's access to tax information in various ways. Before GAO can begin an audit that has not been specifically requested by a committee that has access to tax information, for example, it must notify the Joint Committee on Taxation of the subject matter of the audit and GAO's plans for examining tax information. The Joint Committee can disapprove GAO's proposed examination of tax information within 30 days of that notice. Also, GAO must submit regular reports to the tax-writing committees citing the

- names and positions of GAO employees having access to tax information that identifies taxpayers,
- procedures and requirements that GAO follows to protect the confidentiality of tax information,
- scope and subject matter of any audits not undertaken by GAO as an agent of the committees, and
- results of audit work performed.

GAO conscientiously protects the confidentiality of the tax information it examines. However, should an employee make an unauthorized disclosure, that person could be fined up to \$5,000 and/or jailed for up to 5 years. Moreover, upon conviction, the employee would be dismissed from GAO employment. Additionally, the taxpayer involved could initiate a law suit against the United States for civil damages. (The specific procedures that GAO follows in protecting the confidentiality of tax information are set forth in app. III.)

GAO Audits Involving Tax Treaty Information

Congressional committees would like GAO to broaden its auditing scope to include audits involving tax treaty information, such as audits of IRS' international enforcement activities and IRS' administration of tax treaties. This information, once received by IRS, falls within the U.S. statutory definition of tax information and, as such, is subject to the same confidentiality, disclosure, and safeguard requirements as domestic tax information.

When GAO undertakes audits involving tax treaty information, it will use the information in the same manner as it uses tax information from

domestic sources. That is, any information provided by treaty partners will be used to develop aggregate data for determining if the U.S. agencies that have access to the treaty information are carrying out their responsibilities in the most effective, efficient, and/or economical manner.

For example, to assess IRS' efficiency and effectiveness in administering the operating provisions of tax treaties, GAO would need to examine randomly selected case files. These files could contain confidential taxpayer information provided by treaty partners. GAO could use this tax treaty information to determine if IRS (1) processes tax information routinely provided by treaty partners in a timely and efficient manner and/or (2) uses the information effectively. But, as previously discussed, GAO's review would not affect IRS' authority to make final decisions in specific cases. Rather, GAO would be seeking ways that might improve IRS' efficiency and effectiveness. Also, any public report of GAO's findings would be presented in such a manner as to avoid identification of taxpayers, as required by U.S. statutes and treaty secrecy clauses.

Thus, when GAO examines tax information provided by other countries, it will treat that information in the same manner as it treats tax information obtained from domestic sources. This means that GAO will

- use the information to evaluate overall agency performance and not as a basis for suggesting changes to final IRS decisions in specific cases;
- report tax information in summary or aggregate form so that particular taxpayers cannot be identified;
- protect the confidentiality of the information by disclosing it only as authorized by statute, and then only as necessary; and
- use all appropriate safeguards to protect the information.

Consequently, when GAO examines tax information provided by other countries under the exchange-of-information articles of tax treaties, the treaty partners can be assured that the information will remain confidential.

GAO's Audit Authority

GAO's authority to audit the economy, efficiency, and effectiveness of government agencies and activities is stated in several broad statutes, the first of which, the Budget and Accounting Act of 1921, was enacted to provide for independent review of executive branch expenditures. The 1921 act authorized GAO to audit government agencies and report directly to the Congress. The Legislative Reorganization Act of 1946 and the Budget and Accounting Procedures Act of 1950 reaffirmed and clarified GAO's authority to review the economy and efficiency of government operations. This authority is provided in Title 31 of the U.S. Code as follows:

"The Comptroller General shall—

- (1) investigate all matters related to the receipt, disbursement, and use of public money;
- (2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;
- (3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;
- (4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and
- (5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests." 31 U.S.C. 712 (emphasis added).

GAO's audit authority and responsibility were substantially expanded by the Legislative Reorganization Act of 1970, as amended. The act authorized GAO to audit government activities to determine if program objectives are being achieved. According to the act

"The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

- (1) on the initiative of the Comptroller General;
- (2) when either House of Congress orders an evaluation; or
- (3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

"The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law. On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency."

31 U.S.C. 717(b)-(d)(1).

In carrying out its audits of federal agencies, GAO has the authority to make recommendations to improve government programs and to report its recommendations to the Congress.

"At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

[text omitted]

"In a report under subsection (a) of this section or in a special report to the Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures."

31 U.S.C. 719(a), (b)(2).

The Budget and Accounting Procedures Act was amended in 1977 to clarify GAO's authority to audit IRS. The Comptroller General has the authority to

"... audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406)." 31 U.S.C. 713(a).

Section 6406 of the Internal Revenue Code, referred to in the preceding quotation, prevents GAO audits from affecting IRS' decisions in particular tax cases and states the following:

"In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or nonallowance by the Secretary of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States." 26 U.S.C. 6406.

In addition, the Code requires that GAO notify the Joint Committee on Taxation before proceeding with an audit if the audit is being done on GAO's own initiative and if it will involve the examination of tax information. The Code, which allows the Joint Committee to deny GAO access to the tax information within 30 days, states that

"Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

- (i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and
- (ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice." 26 U.S.C. 6103(i)(7)(C).

Finally, the Budget and Accounting Procedures Act requires that GAO report on its audits of IRS. The Comptroller General is to

"... report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

[text omitted]

- (2) the scope and subject matter of audits under section 713 of this title; and
- (3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement." 31 U.S.C. 719(d).

Access to and Confidentiality of Tax Information

To conduct its audits, GAO needs complete access to all pertinent accounts, records, documents, and related material. Several statutes have addressed this need by giving GAO access to agency records. GAO also has specific access to IRS records, including tax returns and return-related information, subject to strict confidentiality requirements. The statutes authorizing GAO's access to IRS records and the requirements to which this access is subject are discussed below.

Access to Tax Information

The basic authority governing GAO's access to records of government agencies is contained in Title 31 of the U.S. Code.

"Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information." 31 U.S.C. 716(a).

In addition to this basic authority, both the Internal Revenue Code and Title 31 of the U.S. Code provide GAO access to IRS' records. Section 6103 of the Internal Revenue Code states that

"... upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 713 of title 31, United States Code. . . ." 26 U.S.C. 6103(i)(7)(A).

And for the purpose of auditing IRS and BATF, Title 31 provides that

"... to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b)) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General." 31 U.S.C. 713(b)(1).

Additionally, in certain limited circumstances, GAO may examine tax information when auditing federal agencies other than IRS. Specifically, GAO must be auditing an agency's (1) safeguards and procedures to protect the confidentiality of tax information; (2) programs or activities for which the agency has obtained tax information; or (3) programs or

activities for which certain agencies, identified by statute, are authorized to obtain access to tax information but have not yet done so.

Regarding audits of safeguards and procedures, the Internal Revenue Code authorizes GAO access to tax information

"... to determine whether such safeguards and procedures meet the requirement of ... [the Code] and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted." 26 U.S.C. 6103(p)(6).

Regarding audits of federal agency programs, the Internal Revenue Code provides that

"(i)... Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency... for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

"(ii)... If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in [26 U.S.C. 6103 (i)(7)(A)]), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by [26 U.S.C. 6103 (1) or (m)] to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit." 26 U.S.C. 6103(i)(7)(B)(i)-(ii).

Certain congressional committees also have access to tax information, and GAO has access to that information when acting as an agent of one of those committees.

"(1) Committee on Ways and Means, Committee on Finance, and Joint Committee on Taxation.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, 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.

"(2) Chief of Staff of Joint Committee on Taxation.—Upon written request by the

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Access to and Confidentiality of Tax
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Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any 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.

“(3) Other committees.—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

“(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).

Tax information is defined by the Internal Revenue Code to include

“(1) Return . . . any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

“(2) Return information. . .

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

“(3) Taxpayer return information . . . return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.” 26 U.S.C. 6103(b).

Confidentiality Requirements

The Internal Revenue Code requires that tax returns and return-related information be kept confidential and disclosed only as specifically authorized. The Internal Revenue Code also requires that certain procedures be followed to safeguard the confidentiality of that information. Additionally, Title 31 of the U.S. Code contains provisions to ensure that (1) GAO will not make an unauthorized disclosure of tax information, (2) GAO employees are subject to the same penalties and sanctions for unauthorized disclosures as are IRS employees, and (3) the Congress oversees GAO's handling of this sensitive information.

Section 6103 of the Internal Revenue Code protects the confidentiality of tax information by providing that the information shall not be disclosed unless specifically authorized by that section.

"Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,
(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (1)(7)(D) who has or had access to returns or return information under this section, and
(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (2) or (4) (B) of subsection (m), or subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term 'officer or employee' includes a former officer or employee." 26 U.S.C. 6103(a).

Regarding the disclosure of tax information, the Internal Revenue Code provides that GAO may not

"... disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer." 26 U.S.C. 6103(i)(7)(A).

The confidentiality requirements of the Internal Revenue Code are reinforced in Title 31 of the United States Code.

"Except as expressly provided by law, an officer or employee of [GAO] may make known information derived from a record or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of [GAO] whose duties or powers require that the record or property be made known." 31 U.S.C. 713(b)(3).

The law provides that GAO may disclose tax information only to congressional committees that also have access to that information but only when GAO is conducting an audit as an agent of one of those committees and when the committee for which GAO is an agent is sitting in closed executive session. The law also subjects GAO employees to penalties for unauthorized disclosures:

"It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any

officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction of such offense." 26 U.S.C. 7213(a)(1).

The Internal Revenue Code also provides civil damages for the unauthorized disclosure of tax information:

"If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States." 26 U.S.C. 7431(a)(1).

To ensure that unauthorized disclosures are not made, the Internal Revenue Code prescribes certain procedures that GAO must follow to safeguard the confidentiality of tax information. These procedures include (1) maintaining records of the tax information obtained, (2) securing the area in which the information is to be stored, (3) reporting the procedures used to the Secretary of the Treasury, and (4) returning or destroying the information when it is no longer needed. Section 6103(p)(4) states that the General Accounting Office

"... shall, as a condition for receiving returns or return information—

- (A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;
- (B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;
- (C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;
- (D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;
- (E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by ... the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and
- (F) upon completion of use of such returns or return information ...

(ii) ... either—

- (I) return to the Secretary such returns or return information (along with any copies made therefrom),
- (II) otherwise make such returns or return information undisclosable, or
- (III) to the extent not so returned or made undisclosable, ensure that the conditions

of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information. . . .

"If the Secretary determines that . . . the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to . . . the General Accounting Office until he determines that such requirements have been or will be met." 26 U.S.C. 6103(p)(4).

In addition, the Internal Revenue Code provides for congressional oversight of GAO's access to tax information. As discussed in appendix I, the Internal Revenue Code authorizes the Joint Committee on Taxation to deny GAO access to tax information within 30 days of being notified of GAO's audit plans. Also, when GAO completes an audit of an agency other than IRS for which tax information was used, the Internal Revenue Code requires GAO to notify the Joint Committee on Taxation of the use made of tax information by the audited agency, GAO's recommendations with respect to the agency's use of tax information, and the impact of such recommendations on the confidentiality of the information.

"Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

- (I) a description of the use of the returns and return information by the Federal agency involved,
 - (II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and
 - (III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title."
- 26 U.S.C. 6103(i)(7)(B)(iii).

Title 31 of the U.S. Code also provides for congressional oversight of GAO's use of tax information. GAO is required to provide the names and titles of GAO officers and employees who have access to this information to the appropriate congressional committees and to the Commissioner of Internal Revenue every 6 months.

"At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau [of Alcohol, Tobacco and Firearms] that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate,

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Information**

the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau." 31 U.S.C. 713(b)(2).

GAO is also required to annually report to the appropriate congressional committees its procedures for protecting the confidentiality of this information.

"The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title. . . ."
31 U.S.C. 719(d)(1).

GAO's Policies and Procedures for Using Tax Information During Its Audits

GAO's policies and procedures for using tax information, which have been approved by IRS on behalf of the Secretary of the Treasury, cover such matters as (1) initiating audits that include examining tax information; (2) designating employees who may examine tax information; and (3) meeting standards concerning the transmission, custody, and disclosure of tax information.

These policies and procedures, in the form of GAO Order 0135.1, dated September 24, 1985, follow.

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GAO's Policies and Procedures for Using Tax
Information During Its Audits**

GAO FORM - 379 (Aug. 72)
United States
General Accounting Office
Operations Manual



Order

0135.1

AUDIT ASSIGNMENTS INVOLVING
ACCESS TO TAX INFORMATION

September 24, 1985

Distribution: C, N, R, and S

Initiated by: General Government Division

Appendix III
GAO's Policies and Procedures for Using Tax
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GAO FORM - 378 (Aug. 72)

United States
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Operations Manual



Order

0135.1

September 24, 1985

Subject: ADDIT ASSIGNMENTS INVOLVING ACCESS TO TAX INFORMATION

1. **PURPOSE, SCOPE, AND APPLICABILITY.** The purpose of this order is to provide guidance for determining whether and how the General Accounting Office (GAO) may obtain access to tax information for a particular assignment and to ensure compliance with laws and regulations for protecting the confidentiality of such information. Specifically, the order

a. cites GAO's statutory authority to obtain and review tax information during audits of the Internal Revenue Service (IRS); the Bureau of Alcohol, Tobacco, and Firearms (BATF); and other federal, state, and local agencies;

b. establishes policies and procedures for initiating, conducting, and completing assignments requiring access to tax information;

c. states policies and procedures for precluding the unauthorized disclosure of tax information in GAO's custody;

d. establishes security standards governing the transmission, custody, and disposition of tax information consistent with statutory provisions;

e. establishes recordkeeping and reporting requirements; and

f. applies to all GAO organizational elements.

NOTE. References throughout this order to the safeguarding of tax information mean the safeguarding of information so as to preclude the unauthorized disclosure of tax information in any form that identifies, either directly or indirectly, a particular taxpayer. Nothing in this order shall be construed as authorizing disclosure, dissemination, release, handling, or transmission of tax information contrary to specific provisions of any law.

2. **SUPERSESSION.** This order supersedes GAO Order 0135.1, August 25, 1980. Revision has been so extensive that asterisks have not been used to indicate changes.

3. **REFERENCES.**

a. 26 U.S.C. 6103, 7213, and 7431

b. 31 U.S.C. 713 and 719

c. 18 U.S.C. 1905

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d. GAO Order 2752.1, Adverse Actions.

e. GAO General Policy Manual, Chapter 6, Access to Records.

f. IRS Publication 1075, Tax Information Security Guidelines, (Rev. 7-83). Publication 1075 may be obtained from the General Government Division's (GGD), Issue Area Coordinator for Tax Policy and Administration.

4. FORMS.

a. GGD Form 4, Tax Administration Disclosure Control Document

b. GGD Form 8, Record of Receipt

c. GAO Form 100A, Assignment Authorization/Continuation Sheet

d. GAO Form 319, Action Routing Slip

e. GAO Form 393, Routing and Control Record

5. DEFINITIONS.

a. The term "tax information" means returns, return information, and taxpayer return information as defined in 26 U.S.C. 6103(b), including information provided to IRS by foreign governments under the exchange of information articles of tax treaties. (See appendix 1 for statutory definition of "return," "return information," and "taxpayer return information.")

b. The term "program division" refers to any headquarters division that initiates an assignment involving access to tax information.

6. DELEGATION OF AUTHORITY. In accordance with 31 U.S.C. 713(b)(2), the Comptroller General designates in writing every 6 months the GAO employees who are to have access to tax information. Authority is hereby delegated to the Director, GGD, to make interim designations in writing, as necessary in connection with any assignment. The authority to make interim designations is redelegated to the Associate Director for Tax Policy and Administration, GGD.

7. GAO'S ACCESS TO TAX INFORMATION. Whether and how GAO has access to tax information on a given audit assignment is dictated by the source or initiator of the work being done. In this regard, audit assignments are divided into two broad categories: (a) assignments initiated at the request of tax writing committees or other congressional committees with access authority and performed with GAO employees as their designated agents and (b) self-initiated assignments and request assignments not covered by (a). Furthermore, under either (a) or (b), GAO may have access to information provided to IRS by foreign governments under tax treaties, if those treaties specifically allow GAO such access. GAO's access authority under each category is subject to certain limitations and procedures that are set forth in the succeeding paragraphs. Refer questions concerning GAO's accessibility to tax information for a particular assignment to GGD's Issue Area Coordinator for Tax Policy and Administration.

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a. Self-Initiated Assignments and Requests from Member, of Congress and from Committees Not Authorized Access to Tax Information.

(1) GAO has access to tax information for the purpose of auditing IRS and BATF. 26 U.S.C. 6103(i)(7)(A).

(2) GAO has access to tax information in the possession of federal agencies, other than IRS and BATF, for the purpose of auditing the programs or activities for which those agencies obtained the tax information. For example, the Social Security Administration (SSA) collects and uses tax information on earnings and withheld taxes for the purpose of administering certain benefit programs. GAO has access to that tax information, but only for the purpose of auditing SSA's administration of those programs and only after certain notification procedures have been completed. 26 U.S.C. 6103(i)(7)(B)(i).

(3) GAO has access to tax information that certain federal agencies are authorized to obtain even if those agencies have not exercised that authority. These agencies must be authorized access to tax information under 26 U.S.C. 6103(l) or (m). GAO's access, however, is limited to audits of those programs or activities for which the agency is authorized access. For example, GAO would have access to the tax information which the Pension Benefit Guaranty Corporation (PBGC) is authorized to obtain from IRS to administer its termination insurance program. GAO has access to that tax information even if PBGC has not obtained the information from IRS. However, GAO cannot gain access to that tax information unless its objective is to evaluate the termination insurance program and then only after certain notification procedures have been completed. That is, GAO would not have access for the purpose of determining whether PBGC could use the tax information to enhance its administration of any other program. 26 U.S.C. 6103(i)(7)(B)(ii). (See appendix 2 for further information regarding GAO's access authority under this paragraph.)

(4) GAO has access to tax information in the custody of federal, state, and local agencies for the purpose of determining if the agencies' procedures and safeguards meet statutory requirements and ensure the confidentiality of tax information. 26 U.S.C. 6103(p)(6)(A).

b. Assignments Undertaken as Agents of Congressional Committees Authorized Access to Tax Information. GAO has access to tax information for auditing any agency or program when it is acting as a duly designated agent of a tax writing committee--the Joint Committee on Taxation (or that Committee's Chief of Staff), the Senate Committee on Finance, or the House Committee on Ways and Means. GAO also has access to tax information when acting as a duly designated agent for other congressional committees authorized access to tax information by a congressional resolution. 26 U.S.C. 6103(f)(4).

c. Assignments Involving Access to Tax Treaty Information. GAO has access to information provided to IRS by foreign governments under the exchange of information articles of certain tax treaties for the purpose of auditing IRS' administration of the taxes covered by the treaty. Such assignments may be self-initiated or conducted as a duly designated agent of a committee authorized access to tax treaty information. Refer questions concerning whether or not GAO has access under a particular treaty to GAO's Issue Area Coordinator for Tax Policy and Administration.

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8. INITIATING ASSIGNMENTS REQUIRING ACCESS TO TAX INFORMATION. There are varying notification procedures that must be carried out before GAO can obtain access to tax information. The procedures differ for (1) assignments conducted as duly designated agents of tax writing committees or other congressional committees authorized access to tax information by a congressional resolution and (2) self-initiated assignments and request assignments not covered by (1). The procedures also differ depending on the agencies involved in the assignment. The Associate Director for Tax Policy and Administration, GGD, is responsible for coordinating the initiation of all assignments for which access to tax information is required. The notification letters required to initiate an audit must be processed through the Associate Director or his/her designee. The general policies and procedures pertaining to notification letters follow. Before preparing any written material, however, the initiating division discusses the proposed assignment with the Associate Director for Tax Policy and Administration. (See appendix 3 for detailed information on the notification procedures.)

a. Self-Initiated Assignments and Requests from Members of Congress and from Committees Not Authorized Access to Tax Information.

(1) Joint Committee Letter. The Joint Committee on Taxation must be notified by the Comptroller General of each such assignment and given 30 days to evaluate GAO's need for access to tax information. The joint committee can disapprove that access by a vote of two-thirds of its members within the 30-day period. 26 U.S.C. 6103(i)(7)(c).

(a) At least 90 days before access to tax information is required, the program division prepares (1) a draft letter notifying the Joint Committee on Taxation of the assignment and (2) a tentative assignment justification (GAO Form 100A). Cite in the notification letter GAO's audit and access authority, describe the assignment's objective and scope, state GAO's need for access to tax information, and illustrate that need by briefly describing how tax information will be used in meeting the assignment objectives. If the assignment is of the nature described in paragraphs 7a(2) or (3), also state in the letter that in using tax information and in formulating recommendations, GAO will consider any potential impact on tax administration and taxpayer confidentiality. If the assignment is of the nature described in paragraph 7a(3), state in the letter that in evaluating its need for access to tax information, GAO has considered the burdens that such access would impose on IRS. (A sample letter appears in appendix 4.)

(b) The program division forwards the draft notification letter and tentative GAO Form 100A to GGD's Issue Area Coordinator for Tax Policy and Administration. Within 2 weeks, the issue area coordinator reviews those documents and notifies the program division of any suggested changes. Once revised, if necessary, the notification letter, still in draft, is returned to the issue area coordinator for delivery to the staff of the joint committee. It is our practice to send the draft letter to the committee staff before sending it officially to the committee so as to take advantage of the staff's expertise and to identify any aspects of our notification letter that should be clarified. After the letter has been reviewed by the committee staff and revised, if appropriate, the program division forwards it, in final form, to the Associate Director for Tax Policy and Administration along with the draft GAO

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Form 100A and a GAO Form 319, Action Routing Slip. (A sample GAO Form 319 appears in appendix 5.) The associate director forwards the package to the Comptroller General for signature.

(c) After the notification letter is signed by the Comptroller General, the program division delivers it to the Chief of Staff of the Joint Committee on Taxation along with a GGD Form 8, Record of Receipt. This form is completed by the joint committee at the time of delivery. (A sample GGD Form 8 appears in appendix 6.) Once the letter has been delivered to the Chief of Staff and GGD Form 8 has been completed, copies are provided to the recipients identified in appendix 3.

(2) Agency Head Letter.

(a) After the Joint Committee on Taxation has approved GAO's access to tax information, usually by letting the 30-day period expire, a written notification of the assignment must be provided to the head of the federal agency that is to provide the tax information. The letter cites GAO's audit and access authority, the subject of the assignment, and the date the Joint Committee on Taxation was notified. It should also formally request access to the tax information and include, as enclosures, copies of the joint committee letter and the GGD Form 8. (Sample letters appear in appendix 7.)

(b) The program division drafts the letter and forwards it for processing to GGD's Issue Area Coordinator for Tax Policy and Administration within 15 days of the date of the joint committee letter. The issue area coordinator notifies the program division of any suggested changes. The program division then forwards the letter in final form, along with an action routing slip, to the Associate Director for Tax Policy and Administration, GGD, who forwards it to the Comptroller General for signature. The signed letter is then returned to the associate director for dating. (The date is generally no earlier than 31 days after the date on the GGD Form 8.) The dated letter is given to the agency that is to provide the tax information. Copies are provided to the recipients identified in appendix 3.

(3) Liaison Letter. After the agency head has been notified of an assignment as discussed in paragraph 8a(2), agency liaison officials must be notified in writing of GAO's need to review tax information. The procedure discussed below applies only to assignments for which tax information is to be obtained from IRS or BATF. If the assignment involves access to tax information at an agency other than IRS or BATF, the program division is responsible for identifying and satisfying any liaison requirements.

(a) The program division should draft the liaison letter no later than 15 days after the date of the joint committee letter. The liaison letter states GAO's intent to initiate a study, analysis, or evaluation (rather than a survey or review); cites the job code; states GAO's need for access to tax information; lists the agency organizational units and/or locations involved; states the date that GAO plans to begin the assignment (which must be at least 2 weeks after the date of the letter to give IRS and BATF time to arrange for disclosing the information to GAO); and requests that the appropriate officials be notified of GAO's assignment plans. (A sample letter appears in appendix 8.)

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(b) The program division forwards the draft letter to GCD's Issue Area Coordinator for Tax Policy and Administration for processing. The issue area coordinator notifies the program division of any suggested changes. The program division forwards the letter, in final form, to the Associate Director for Tax Policy and Administration for signature. The letter includes, as enclosures, copies of the joint committee letter, the GCD Form 8, and the agency head letter, and is dated one day after the date of the agency head letter. The signed letter and copies are delivered to the recipients identified in appendix 3. An additional letter is needed each time a new location is included in an assignment.

b. Assignments Conducted as Duly Designated Agents of Committees Authorized Access to Tax Information. For these assignments only one letter is required, a letter to the agency from which tax information is to be obtained.

(1) As soon as a request letter is received, the program division must prepare a letter notifying agency officials of the assignment and the need for access to tax information. The letter cites the job code and the anticipated work sites and includes the request letter as an enclosure. Letters to IRS or BATF should refer to the assignment as a study, analysis, or evaluation (rather than a survey or review); state the date that GAO plans to begin the assignment (which must be at least 2 weeks after the date of the letter); and request that appropriate officials be notified of GAO's assignment plans. (A sample letter appears in appendix 8.)

(2) The program division forwards the draft letter to GCD's Issue Area Coordinator for Tax Policy and Administration. The issue area coordinator notifies the program division of any suggested changes.

(3) If the letter is addressed to IRS or BATF, the program division forwards the letter in final form to GCD's Associate Director for Tax Policy and Administration for signature. Otherwise, the program division is responsible for getting the letter signed. The signed letter and copies are delivered to the recipients identified in appendix 3.

9. DESIGNATION OF GAO EMPLOYEES HAVING ACCESS TO TAX INFORMATION. GAO employees are not entitled to possession of, knowledge of, or access to tax information solely by virtue of the office or position held. Rather, access to tax information within GAO is limited to those GAO employees who need to obtain and/or review such information in conjunction with an assignment described under paragraph 7 and have been designated in writing by the Comptroller General or his designee as having access to such information. These written designations are made before the start of assignments and at certain specified intervals and are not effective until they have been distributed to the appropriate congressional committees and agencies. The designations must include any GAO employee who will need access to the tax information, including administrative staff, attorneys, and other office personnel. In this regard, consultants can be included on designation lists and thus authorized access to tax information only if they are classified as special government employees under title 5 of the U.S. Code; they can not be included if they are classified as independent contractors. GAO's policies and procedures for preparing and distributing written designations follow.

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a. Self-Initiated Assignments and Requests from Non-Tax Writing Committees and Members of Congress.

(1) The Comptroller General, at six-month intervals, designates in writing each GAO employee who is to have access to tax information. These designations are updated monthly by the Associate Director for Tax Policy and Administration, GGD, pursuant to the delegation of authority made under paragraph 6.

(2) The associate director delivers certified copies of the semi-annual lists and monthly updates to (a) the Joint Committee on Taxation, (b) the Senate Committee on Finance, (c) the House Committee on Ways and Means, (d) the Senate Committee on Governmental Affairs, (e) the House Committee on Government Operations, (f) IRS, (g) BATF, and (h) the program divisions responsible for assignments that require access to tax information.

(3) Before the initiation of assignments described under paragraphs 7a(2) and 7a(4), the Associate Director for Tax Policy and Administration, GGD, provides the program divisions with certified copies of lists of those GAO employees from the above lists who are to have access to tax information in the agency's possession. The program divisions are responsible for delivering copies of the lists to the appropriate agencies. The associate director prepares updated listings for these agencies when staffing changes occur.

b. Assignments Conducted as Agents of the Joint Committee on Taxation.

(1) The Comptroller General, at six-month intervals, designates in writing each GAO employee who is authorized access to tax information as an agent for that committee. The Associate Director for Tax Policy and Administration, GGD, updates the designations monthly.

(2) The associate director delivers certified copies of the semi-annual and monthly lists to the Joint Committee on Taxation, IRS, and the program divisions responsible for assignments that require access to tax information.

(3) For an assignment involving an agency other than IRS, the associate director, before initiation of the assignment, provides the responsible program division with a certified copy of a list of GAO employees who are to have access to tax information for the assignment. The program division delivers the list to the agency. The associate director prepares updated listings when staffing changes occur.

c. Assignments Conducted as Agents of the Senate Committee on Finance or the House Committee on Ways and Means.

(1) The Comptroller General, prior to initiation of the assignment, designates in writing each GAO employee who is authorized to have access to tax information. These designations are updated by the Associate Director for Tax Policy and Administration, GGD, as staffing changes occur.

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(2) The associate director delivers certified copies of the initial and updated lists to (a) the committee for which GAO is acting as an agent, (b) IRS or BATF, if appropriate, and (c) the program division responsible for the assignment. The program division delivers copies of the lists to agencies other than IRS and BATF who will provide tax information as part of the assignment.

d. Program Division Responsibilities.

(1) For self-initiated assignments and assignments undertaken as agents of the Joint Committee on Taxation, program division directors must advise GCD's Issue Area Coordinator for Tax Policy and Administration, by the 15th of each month, of the employees who are to be added to or deleted from the prior month's designation list. For assignments undertaken as an agent of the House Committee on Ways and Means or the Senate Committee on Finance, program division directors must advise the issue area coordinator, as soon as possible, of changes that are needed to the designation list. For all assignments, directors should provide the full name and title of the employee, the assignment code, and, if applicable, the name of the committee for which the employee is to act as an agent. This information is needed for all headquarters, region, and staff office professional and administrative employees who are to be assigned to or released from assignments requiring access to tax information.

(2) Program divisions are responsible for assuring delivery of certified copies of the lists to agencies, other than IRS and BATF, that are to provide tax information.

(3) Program divisions are responsible also for assuring that tax information is obtained and/or reviewed by only those employees who have been designated by the Comptroller General or his designee as having access to such information.

10. RESTRICTIONS ON DISCLOSING TAX INFORMATION. The confidentiality of tax information is closely protected by U.S. statutes. Unless specifically authorized, government employees, including those of GAO, are expressly prohibited from disclosing tax information. There are severe criminal and civil penalties for making unauthorized disclosures. GAO employees are responsible for protecting the confidentiality of tax information and for preventing unauthorized disclosures.

a. **Authorized Disclosures.** GAO employees are expressly prohibited by statute from disclosing tax information in a form that can be associated with, or otherwise identify, either directly or indirectly, a particular taxpayer except as provided below. 26 U.S.C. 6103(i)(7)(A), 31 U.S.C. 713(b)(3).

(1) Within GAO, tax information may only be disclosed to employees who (a) by virtue of their involvement in an assignment, have a need to examine such information and (b) have been designated as having access to the information under the procedures set forth under paragraph 9.

(2) Outside of GAO, tax information may be disclosed only to the Joint Committee on Taxation, the Senate Committee on Finance, or the House Committee on Ways and Means, but only when GAO is acting as a duly designated agent of one of those committees and when the committee for which GAO is an agent is sitting

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in closed executive session. The program divisions must coordinate any requests for, or potential disclosures of, tax information with the Associate Director for Tax Policy and Administration, GGD.

b. Penalties For Unauthorized Disclosures.

(1) Disciplinary action, including reprimand and suspension, may be taken against employees who make an unauthorized disclosure of tax information. (See GAO Order 2752.1, Adverse Actions.)

(2) GAO employees who willfully make an unauthorized disclosure are subject to criminal penalties. An unauthorized disclosure is a felony, punishable upon conviction by a fine of up to \$5,000 and/or a jail term of not more than 5 years. Upon conviction, the employee will be discharged from employment. 26 U.S.C. 7213(a)(1), 18 U.S.C. 1905.

(3) Civil penalties are also provided for unauthorized disclosures of tax information. The taxpayer involved can initiate a law suit for civil damages against the United States. 26 U.S.C. 7431.

11. SAFEGUARDING TAX INFORMATION. To protect the confidentiality of tax information and to prevent its unauthorized disclosure, GAO has developed safeguard procedures that have been approved by the Secretary of the Treasury. The Secretary may refuse GAO further access to tax information if these procedures are not fully observed by GAO employees. Also, the Secretary is required to report any safeguard deficiencies to the appropriate congressional committees. GAO employees with access to tax information are responsible for carrying out the following safeguard procedures.

a. Disclosure Accounting. GAO is required to maintain a permanent system of records to account for all disclosures of tax information made to or by it. 26 U.S.C. 6103(p)(4)(A), 26 U.S.C. 6103(p)(6)(B)(i).

(1) **Tax Information Disclosed to GAO.** IRS, BATF, and other federal agencies that disclose tax information to GAO are responsible for determining when such a disclosure has occurred and for documenting each disclosure. GAO relies on such determinations and recordings as the basis for its recordkeeping system. Program divisions are responsible for ensuring that their employees obtain and record this information in accordance with the procedures described below.

(a) GAO staff at the location where tax information is received arranges with appropriate agency officials to obtain, on a daily basis, a copy of each agency record of disclosure to GAO. Agency personnel are responsible for preparing these records. Generally, IRS personnel record disclosures to GAO on IRS Forms 5466 and 5466A. Other agencies may have different disclosure forms. GAO staff members are responsible for identifying these forms.

(b) The copies of the agency's disclosure forms or other records are used by the GAO staff for daily posting to GGD Form 4, Tax Administration Disclosure Control Document. A separate form must be kept by each GAO work location for each job code. (A sample GGD Form 4 appears in appendix 9.)

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(c) On the last day of every month, the GAO staff at each work location must forward a copy of the GGD Form 4 showing the month's postings to the Associate Director for Tax Policy and Administration, GGD. If no disclosures were made during the month, a GGD Form 4 must be forwarded reflecting that fact. If the agency disclosure officer at a particular location requests a copy of the month's postings, it should be provided.

(d) The GAO staff at each work location maintains the original GGD Form 4s and copies of the agency's disclosure forms or other supporting records in a separate folder at each work location until the audit work is completed. At that time, the folder is sent to the Associate Director for Tax Policy and Administration, GGD.

(2) Tax Information Disclosed by GAO. As discussed under paragraph 10a(2), any requests for access to tax information made to GAO must be referred to the Associate Director for Tax Policy and Administration, GGD, who is responsible for responding to and accounting for such requests.

b. Controlling Access to Tax Information. GAO employees are responsible for controlling access to tax information in their possession. Program division directors are responsible for ensuring that all GAO employees on assignments within their areas of responsibility are familiar with the appropriate agency standards regarding the safeguarding of tax information and the policies and procedures set forth in this order. Any employee who has knowledge of the loss or possible compromise of any tax information must promptly report the circumstances to the Associate Director for Tax Policy and Administration, GGD, who will take appropriate action.

c. Physical Control Over Tax Information. GAO employees are responsible for maintaining physical control over the tax information in their possession. The tax information must be controlled in a manner that is consistent with the security standards set forth in IRS' Publication 1075, Tax Information Security Guidelines, any additional standards established by the agency that provided the information to GAO, and the policies and procedures set forth in this order. Program division directors are responsible for ensuring that all GAO employees on assignments within their areas of responsibility are familiar with all appropriate physical security standards. For example:

(1) All workpapers and workpaper bundles containing tax information must be marked "access limited to GAO personnel designated for this assignment."

(2) Computer files containing tax return information must be protected against disclosure to unauthorized personnel when being processed at non-IRS computer facilities. The following safeguards must be adhered to:

(a) All magnetic media, files, reports, and related items must remain under the direct control of an authorized GAO employee before, during, and after processing.

(b) Tax information must not be left in the computer memory at the end of processing. While tax data is resident in memory, access must be limited to authorized applications.

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(c) All undesired computer listings and reports must be properly disposed of by a GAO employee who has been authorized access to tax information.

(3) Tax information, working papers, and magnetic media (such as computer tapes and electronic word processing disks) containing tax information must be stored in authorized metal cabinets with locks maintained in secure areas under the control of employees who have been authorized access to tax information. 26 U.S.C. 6103(p)(4)(B).

(4) Tax information must not be discussed over telephone lines that are not secure and must be transmitted electronically in accordance with GAO-prescribed controls.

(5) When tax information, working papers, and magnetic media containing tax information cannot be hand-carried, they must be sent by registered mail with a return receipt to be signed by an employee authorized access to tax information. Tax information sent in an envelope must be double sealed and the inside envelope marked "to be opened by addressee only." Shipments of tax information must be documented and monitored to ensure that they are promptly received. A GAO Form 393, Routing and Control Record, must be completed in duplicate. The original remains with the sender, the copy accompanies the mailing.

(6) GAO will not retain custody of original returns after an assignment is completed, except by special arrangement made with the Commissioner of Internal Revenue or the Commissioner's designee. GAO will return original returns to IRS.

(7) When copies of returns and working papers containing tax information are no longer needed, they should be transferred to the Federal Records Center. Because special procedures apply to the transfer of tax information, the program division should contact GGD's Issue Area Coordinator for Tax Policy and Administration prior to transferring the records. If the program division has retained custody of the tax information for 3 years after the assignment was terminated, the information must be destroyed in accordance with IRS' Tax Information Security Guidelines, under the supervision of a GAO employee designated as having access to tax information. In accordance with IRS' guidelines, when tax information on magnetic media (e.g., computer tapes and electronic word processing disks) is no longer needed, it must be erased and the tape either released for other use or destroyed. 26 U.S.C. 6103(p)(4)(F).

d. Periodic Inspections of Safeguard Procedures and Annual Safeguard Activity Report.

(1) 26 U.S.C. 6103(p)(4) provides, in effect, that if IRS finds GAO's procedures for safeguarding tax information to be inadequate, it can refuse to disclose tax information to GAO until the inadequacies have been corrected.

(2) In that regard, GGD's Associate Director for Tax Policy and Administration is responsible for assuring that periodic inspections of safeguard procedures are made of GAO divisions and offices and maintaining a record of each inspection in accordance with IRS' Tax Information Security Guidelines. The Office of Security and Safety is responsible for making these inspections

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and reporting the results to the head of the division or office involved and to the Associate Director for Tax Policy and Administration, GGD. The inspection records are available for IRS' review upon request.

(3) The Associate Director for Tax Policy and Administration, GGD, is responsible for summarizing the inspection results for inclusion in the annual Safeguard Activity Report to IRS as required by 26 U.S.C. 6103(p)(4)(E). That report is also to include (a) information on significant changes in safeguard procedures or authorized access to tax information during the year and any changes or enhancements to physical and computer security measures used to safeguard tax information and (b) the identity of tax information disposed of during the year and the date and manner of destruction. By December 31 of each year, program divisions should forward any information concerning the above to the Associate Director for Tax Policy and Administration for inclusion in the annual report.

e. General.

(1) The Comptroller General and all GAO employees will cooperate with the Commissioner of Internal Revenue and the heads of other federal agencies in implementing any additional controls or safeguards deemed necessary by the Secretary of the Treasury to safeguard the confidentiality of tax information in GAO's possession. 26 U.S.C. 6103(p)(4)(D).

(2) Program division directors refer any additional safeguard procedures recommended by the Commissioner of Internal Revenue or the heads of other federal agencies for use within GAO to the Associate Director for Tax Policy and Administration, GGD, for review and approval.

12. BACKGROUND INVESTIGATIONS AND OUTSIDE EMPLOYMENT. To be consistent with IRS' requirements for its own internal auditors, it is GAO's policy that any employee having access to tax information be subject to the favorable completion of a background investigation. It is GAO's policy also that employees assigned to jobs involving access to tax information not engage in outside employment involving the preparation of tax returns.

13. ACCEPTANCE OF SPECIFIC TAXPAYERS' NAMES FROM CONGRESS. In accordance with GAO's policy, GAO audits of IRS' administration of the tax laws is normally based on a random sampling from appropriate universes of tax information rather than on a review of information for preselected taxpayers. The circumstances and procedures under which GAO will accept from the Congress names of specific taxpayers are set forth in appendix 10.

14. NOTIFICATION OF COMPLETION OF CERTAIN ASSIGNMENTS. When GAO completes an assignment of the nature described in paragraphs 7a(2) or (3), the Joint Committee on Taxation must be notified within 90 days. 26 U.S.C. 6103(i)(7)(B)(iii). In that regard, the program division, within 30 days after completion of an assignment, prepares a letter to describe (a) the federal agency's use of the tax information, (b) GAO's recommendations with respect to the federal agency's use of tax information, and (c) the impact of GAO's recommendations on the confidentiality of tax information and on the administration of the tax laws. The division forwards the notification letter, in final form with an action routing slip, through the Associate Director for Tax Policy and

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Administration, GGD, to the Comptroller General for signature. After the Comptroller General signs the letter, the program division delivers it to the Chief of Staff of the Joint Committee on Taxation and provides a copy to the Associate Director for Tax Policy and Administration.

15. ANNUAL REPORT. The Comptroller General is required by law to submit to the Senate Committees on Finance and Governmental Affairs, the House Committees on Ways and Means and Government Operations, and the Joint Committee on Taxation, a written annual report on GAO assignments involving IRS, BATF, and other federal agencies for which it had access to tax information and the policies and procedures established for protecting the confidentiality of tax information. The program divisions are responsible for providing GGD's Issue Area Coordinator for Tax Policy and Administration with information to be included in the report. The Associate Director for Tax Policy and Administration, GGD, is responsible for preparing the annual report. 31 U.S.C. 719(d).

a. Contents of Report. The annual report includes information on

- (1) open recommendations to the Congress,
- (2) legislative action taken during the year on recommendations,
- (3) recommendations made to the heads of federal agencies concerning the administration of taxes and/or the use of tax information,
- (4) reports on tax matters issued during the year,
- (5) testimony on tax matters given by GAO officials during the year,
- (6) scope and subject matter of assignments requiring access to tax information initiated during the year, and
- (7) GAO's policies and procedures for safeguarding the confidentiality of tax information.

b. Responsibilities. Program division directors are responsible for providing GGD's Issue Area Coordinator for Tax Policy and Administration with the information listed above for reports and assignments within their areas of responsibility. The information should be provided no later than January 15 of each year and should apply to the prior calendar year. (See appendix 11 for sample formats.) The Associate Director for Tax Policy and Administration, GGD, is responsible for preparing and processing the annual report for the signature of the Director, GGD, as soon as possible after the close of each calendar year.

c. Report Distribution. The report is submitted to the House Committee on Ways and Means, Senate Committee on Finance, Joint Committee on Taxation, House Committee on Government Operations, and Senate Committee on Governmental Affairs. Copies of the report are sent to the heads of the federal agencies discussed in it.

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APPENDIX 1. DEFINITIONS OF "RETURN," "RETURN INFORMATION," AND "TAXPAYER RETURN INFORMATION" LOCATED IN 26 U.S.C. 6103(b)

1. **RETURN.** The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

2. **RETURN INFORMATION.** The term "return information" means

a. a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

b. any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110.

But such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

3. **TAXPAYER RETURN INFORMATION.** The term "taxpayer return information" means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

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APPENDIX 2. GAO'S ACCESS TO TAX INFORMATION THAT IRS CAN DISCLOSE TO OTHER AGENCIES UNDER 26 U.S.C. 6103(1) AND (m)

Under certain circumstances, GAO may have access to tax information that a federal agency does not have in its files, but that it could have obtained for non-tax administration purposes. This GAO access authority is limited to (1) audits of the programs and activities for which agencies are authorized access under 26 U.S.C. 6103(1) and (m), a copy of which can be found at the end of this appendix, and (2) the types of tax information that may be disclosed under those sections. Also, before requesting access, GAO must take into account the burden that such access might impose on the Internal Revenue Service.

Some of the programs and activities to which this access authority applies and the kinds of tax information to which GAO may have access are summarized below. The list is not all-inclusive. Because the statutes governing this area are complex, determinations as to whether or not GAO has access to tax information have to be made on a case-by-case basis. These determinations are to be made in consultation with the Associate Director for Tax Policy and Administration, GGD, and the Office of General Counsel.

<u>AGENCY</u>	<u>PROGRAM OR ACTIVITY</u>	<u>TYPE OF TAX INFORMATION</u>
Social Security Administration	Administration of social security benefits	Tax returns and return information with respect to (1) self-employment income, (2) FICA taxes, and (3) income taxes withheld from wages, interest, and dividends
	Administration of vested benefits under employee pension plan	Statements, notifications, reports, or other information related to pension plans
	Administration of the combined annual wage reporting program	Information returns
Railroad Retirement Board	Administration of the Railroad Retirement Act	Tax returns and return information with respect to railroad retirement taxes
Department of Labor and the Pension Benefit Guaranty Corporation	Administration of the employee benefit program	Tax returns and return information
	Administration of the termination insurance program	Tax returns and return information
Federal agencies which make, guarantee, or insure loans	Administration of federal loan programs	Information on whether or not a loan applicant has a delinquent tax account

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<u>AGENCY</u>	<u>PROGRAM OR ACTIVITY</u>	<u>TYPE OF TAX INFORMATION</u>
Federal, state, and local child support enforcement agencies	Establishment and col- lection of child sup- port obligations	Information from returns related to income and dependents
Federal, state, and local agencies that administer the Food Stamp Program	Determination of eligi- bility for, or the cor- rect amount of, benefits under the Food Stamp Program	Information from returns with respect to wages, retirement and self-employment income, and Information from returns with respect to unearned income
Federal, state, and local agencies which administer the Aid to Families with Dependent Children Program	Determination of eligi- bility for, or the correct amount of, benefits under the Aid to Families with Dependent Children Program	Information from returns with respect to wages, retirement and self-employment income, and Information from returns with respect to unearned income
Federal, state, and local agencies that administer the Medicaid Program	Determination of eligi- bility for, or the correct amount of, benefits under the Medicaid Program	Information from returns with respect to wages, retirement and self-employment income, and Information from returns with respect to unearned income
Federal, state and local agencies that administer the Supplemental Security Income Program	Determination of eligi- bility for, or the cor- rect amount of, benefits under the Supplemental Security Income Program	Information from returns with respect to wages, retirement and self-employment income, and Information from returns with respect to unearned income
Federal, state, and local agencies that administer assistance programs in the territories	Determination of eligi- bility for, or the cor- rect amount of, benefits under assistance pro- grams in the territories	Information from returns with respect to wages, retirement and self-employment income, and Information from returns with respect to unearned income

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<u>AGENCY</u>	<u>PROGRAM OR ACTIVITY</u>	<u>TYPE OF TAX INFORMATION</u>
Federal, state, and local agencies that administer the unemployment compensation benefit program	Determination of eligi- bility for, or the cor- rect amount of, bene- fits under the unemploy- ment compensation bene- fit program	Information from returns with respect to wages, retirement and self-employment income and Information from returns with respect to unearned income
Federal agencies that collect or compromise federal claims	Location of individuals to collect or compro- mise federal claims	Taxpayer's mailing address
Department of Education	Collection of delinquent student loans	Taxpayer's mailing address
Federal agencies that request IRS offset of debts	Establishment of appro- priate agency records or defense of litiga- tion or administrative procedure ensuing from federal debt reduction.	Certain return information related to offset of federal debt

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26 U.S.C. 6103(1) and (m)

(1) Disclosure of Returns and Return Information for Purposes Other Than Tax Administration.—

(1) Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board.—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part 1 of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however, to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation.—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) Disclosure that applicant for federal loan has tax delinquent account.—

(A) In general.—Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) Restriction on disclosure.—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) Included federal loan program defined.—For purposes of this paragraph, the term "included Federal loan program" means any program—

(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program.

(4) Disclosure of returns and return information for use in personnel or claimant representative matters.—The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of title 31, United States Code, solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

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(5) Department of Health and Human Services.—Upon written request by the Secretary of Health and Human Services, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

(6) Disclosure of return information to Federal, State, and local child support enforcement agencies.—

(A) Return information from Internal Revenue Service.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) Restriction on disclosure.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) Disclosure of return information to federal, state, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977.—

(A) Return information from social security administration.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402) wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

(B) Return information from Internal Revenue Service.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

(C) Restriction on disclosure.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

(D) Programs to which rule applies.—The programs to which this paragraph applies are:

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- (i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;
- (ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;
- (iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);
- (iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);
- (v) unemployment compensation provided under a State law described in section 3304 of this Code;
- (vi) assistance provided under the Food Stamp Act of 1977; and
- (vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66).

(8) Disclosure of certain return information by social security administration to state and local child support enforcement agencies.—

(A) In general.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to social security account numbers, net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) Restriction on disclosure.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) State or local child support enforcement agency.—For purposes of this paragraph, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (b).

(9) Disclosure of alcohol fuel producers to administrators of state alcohol laws.— Notwithstanding any other provision of this section, the Secretary may disclose—

(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

(B) the location of any premises to be used by such person in producing alcohol for fuel.

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.

(10) Disclosure of certain information to agencies requesting a reduction under Section 6402(c) or 6402(d).—

(A) Return information from Internal Revenue Service.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

- (i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;
- (ii) the amount of such reduction; and
- (iii) taxpayer identifying information of the person against whom a reduction was made or not made.

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(B) Restriction on use of disclosed information.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).

(11) Disclosure of certain information to agencies requesting a reduction under section 6402(c).—

(A) Return information from internal revenue service.—The Secretary shall, upon receiving a written request, disclose to officers and employees of a State agency seeking a reduction under section 6402(c)—

- (i) the fact that a reduction has been made or has not been made under such subsection with respect to any taxpayer;
- (ii) the amount of such reduction;
- (iii) whether such taxpayer filed a joint return;
- (iv) taxpayer identity information with respect to the taxpayer against whom a reduction was made or not made and of any other person filing a joint return with such taxpayer; and
- (v) the fact that a payment was made (and the amount of the payment) on the basis of a joint return in accordance with section 464(a)(3) of the Social Security Act.

(B) Restriction on use of disclosed information.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from a reduction made under section 6402(c).

(m) Disclosure of Taxpayer Identity Information.—

(1) Tax refunds.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims.—

(A) In general.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 [section 3711 of title 31, United States Code] (31 U.S.C. 952).

(B) Special rule for consumer reporting agency.—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 [section 3711 of title 31, United States Code] (31 U.S.C. 952).

(3) National Institute for Occupational Safety and Health.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

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(4) Individuals who have defaulted on student loans.—

(A) In general.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

(i) made under part B or E of title IV of the Higher Education Act of 1965,

or

(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education.

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

(B) Disclosure to educational institutions, etc.—

Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act.

for use only by officers, employees or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

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PROCEDURES

Program division prepares draft letter and tentative GAO Form 100A and sends it to GGD's Issue Area Coordinator for Tax Policy and Administration.

Issue Area Coordinator informally discusses letter with joint committee and notifies program division of suggested changes.

Program division finalizes letter and forwards it with the tentative GAO Form 100A and Action Routing Slip, GAO Form 319, through the Associate Director for Tax Policy and Administration, GGD, to the Comptroller General for signature.

After signature, program division delivers letter to Joint Committee on Taxation and obtains signed Record of Receipt, GGD Form 8.

Copies of the letter and signed record of receipt are provided to

- the agency from which tax information is received,
- the Associate Director for Tax Policy and Administration, GGD, and
- GGD's Issue Area Coordinator for Tax Policy and Administration (2 copies).

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REQUIRED NOTIFICATION LETTERS	ADDRESSEE	SIGNER	PROCEDURES
2. Agency head letter.	Commissioner of Internal Revenue.	Comptroller General.	<p>Program division prepares draft letter and sends it to GAO's Issue Area Coordinator for Tax Policy and Administration within 15 days of the date of the Joint Committee on Taxation letter.</p> <p>Issue area coordinator discusses suggested changes with the program division.</p> <p>Program division finalizes letter and forwards it with an action routing slip through the Associate Director for Tax Policy and Administration, GAO, to the Comptroller General for signature.</p> <p>GAO's Issue Area Coordinator for Tax Policy and Administration delivers the letter, with copies of the Joint Committee letter and the GAO Form 8 enclosed, to the addressee.</p> <p>Copies of the letter and enclosures are provided to</p> <ul style="list-style-type: none"> the program division; the Associate Director for Tax Policy and Administration, GAO; and GAO's Issue Area Coordinator for Tax Policy and Administration (2 copies).

REQUIRED
NOTIFICATION
LETTERS

ADDRESSEE

SIGNER

PROCEDURES

Assignments for which tax information is to be obtained from BATF

Secretary of the
Treasury, Attn:
Assistant Secretary
(Enforcement and
Operations),
Department of the
Treasury.

cc: Director,
Bureau of Alcohol,
Tobacco, and
Firearms.

Inspector General-
Audit Staff,
Department of the
Treasury.

Chief, Internal
Audit, Bureau of
Alcohol, Tobacco,
and Firearms.

Comptroller
General.

Same procedures as for IRS assignments.

Additional copies of letter and enclosures are
provided to the
--Director, Bureau of Alcohol, Tobacco, and
Firearms;
--Inspector General - Audit Staff, Department
of the Treasury; and
--Chief, Internal Audit, Bureau of Alcohol,
Tobacco, and Firearms.

REQUIRED
NOTIFICATION
LETTERS

ADDRESSEE

SIGNER

PROCEDURES

Assignments for which tax information is to be obtained from an agency other than IRS or BATF

As appropriate.

Comptroller
General.

Same procedures as for IRS assignments, except
that program division delivers letter and
enclosures to addressee.

Additional copies of the letter and enclosures
are provided as appropriate.

3. Agency liaison Assignments for which tax information is to be obtained from IRS
letter.

Assistant
Commissioner
(Inspection)
Internal Revenue
Service.

GGD's Associate
Director for Tax
Policy and
Administration.

Program division prepares draft letter within 15
days of the date of the joint committee letter
and sends it to GGD's issue area coordinator
for Tax Policy and Administration for review.

Issue area coordinator discusses suggested
changes with the program division.

REQUIRED
NOTIFICATION
LETTERS

ADDRESSEE

SIGNER

PROCEDURES

Program division finalizes letter and forwards it to the Associate Director for Tax Policy and Administration, GGD, for signature.

GGD's Issue Area Coordinator for Tax Policy and Administration delivers the letter to the addressee.

Copies of letter are provided to
--the program division;
--the Associate Director for Tax Policy and Administration, GGD; and
--GGD's Issue Area Coordinator for Tax Policy and Administration (2 copies).

Assignments for which tax information is to be obtained from BATF

Chief, Internal Audit,
Bureau of Alcohol, Tobacco,
and Firearms.

GGD's Associate
Director for Tax
Policy and
Administration.

Same procedures as for IRS assignments.

Assignments for which tax information is to be obtained from an agency other than IRS or BATF

As appropriate.

To be determined
by the responsible
program division.

To be determined by the responsible
program division.

REQUIRED
NOTIFICATION
LETTERS

ADDRESSEE

SIGNER

PROCEDURES

Assignments conducted as duly designated agents of
committees authorized access to tax information

1. Agency letter. Assignments for which tax information is to be obtained from IRS

Assistant Commis-
sioner (Inspection)
Internal Revenue
Service.

GGO's Associate
Director for Tax
Policy and
Administration.

Program division prepares draft letter and
forwards to GGO's Issue Area Coordinator
for Tax Policy and Administration for review.

Issue area coordinator discusses suggested
changes with the program division.

Program division finalizes letter and forwards
it to the Associate Director for Tax Policy
and Administration, GGO, for signature.

GGO's Issue Area Coordinator for Tax Policy and
Administration delivers the letter to the
addressee.

Copies of the letter are provided to
—the program division;
—the Associate Director for Tax Policy and
Administration, GGO; and
—GGO's Issue Area Coordinator for Tax Policy
and Administration (2 copies).

REQUIRED
NOTIFICATION
LETTERS

ADDRESSEE

SIGNER

PROCEDURES

Assignments for which tax information is to be obtained from BATF

Secretary of the
Treasury, Attn:
Assistant Secretary
(Enforcement and
Operations),
Department of the
Treasury.

cc: Director,
Bureau of Alcohol,
Tobacco, and
Firearms.

Inspector General-
Audit Staff,
Department of the
Treasury.

Chief, Internal
Audit, Bureau of
Alcohol, Tobacco,
and Firearms.

GAO's Associate
Director for Tax
Policy and
Administration.

Same procedures as for IRS assignments.

Additional copies of letter are provided to
the

--Director, Bureau of Alcohol, Tobacco and
Firearms;

--Inspector General - Audit Staff, Department
of the Treasury; and

--Chief, Internal Audit, Bureau of Alcohol,
Tobacco, and Firearms.

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<u>REQUIRED NOTIFICATION LETTERS</u>	<u>ADDRESSEE</u>	<u>SIGNER</u>	<u>PROCEDURES</u>
<u>Assignments for which tax information is to be obtained from an agency other than IRS or BAIT</u>			
As appropriate.	To be determined by the responsible program division.	Program division prepares draft letter and forwards to GAO's Issue Area Coordinator for Tax Policy and Administration for review.	Issue area coordinator discusses suggested changes with the program division.
		Program division finalizes letter, signs it, and delivers it to addressee.	
		Copies of the letter are provided to --the Associate Director for Tax Policy and Administration, GAO, and --GAO's Issue Area Coordinator for Tax Policy and Administration (2 copies).	

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APPENDIX 4. SAMPLE JOINT COMMITTEE LETTER

The Honorable Dan Rostenkowski
Chairman, Joint Committee on Taxation
Congress of the United States

Dear Mr. Chairman:

This letter is to notify you that, pursuant to the authority granted to us by 31 U.S.C. 713 and Section 6103 of the Internal Revenue Code, we plan to review the extent to which the Internal Revenue Service (IRS) is required to pay interest to taxpayers for overpayments it receives. Our overall objectives are to (1) assess the potential impact of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) on interest costs and (2) determine whether IRS could take certain administrative actions to improve its return processing procedures and, thereby, reduce the number and amount of such payments.

Under Section 6611 of the Internal Revenue Code, a taxpayer is entitled to receive interest on an overpayment to IRS if IRS does not issue the refund check within 45 days after the return is due (normally April 15th). In general, the code provides that the interest should be calculated from April 15 until the date the refund check is issued. During fiscal year 1982, IRS paid about \$1.8 billion in interest, up from about \$500 million in fiscal year 1980.

TEFRA gave IRS some measure of relief from paying interest by providing that no interest will be paid until a return is filed in a form suitable for processing. Also, TEFRA changed the means by which interest is to be calculated for delinquent filers. Prior to TEFRA, interest was paid from the due date regardless of whether or not the return was delinquent.

To do this work, it will be necessary for us to have access to returns and return information. For example, we plan to analyze a sample of tax returns on which interest was paid by IRS to identify the circumstances surrounding such payments and to determine whether procedural shortcomings are contributing to the interest payment problem.

Should you or members of your staff have any questions or comments on this proposed assignment, please call Mr. Johnny C. Finch on 275-6407.

Sincerely yours,

Comptroller General
of the United States

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APPENDIX 5. SAMPLE GAO FORM 319, ACTION ROUTING SLIP

U. S. GENERAL ACCOUNTING OFFICE ACTION ROUTING SLIP	
B-	
NAME	DATE
Associate Director, GGD	
1. (name of Associate Director for Tax Policy and Admin.)	
Director, GGD	
2. (name)	
3. OCR	
4. Comptroller General	
Associate Director, GGD	
5. (same name as in block 1)	
6.	
7.	
8.	
9.	
10.	
REMARKS	
Please call (Associate Director's name) on (telephone number) when letter is signed. He will date it.	
GAO FORM 319 (Rev Apr 64)	

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APPENDIX 6. SAMPLE GAO FORM 8, RECORD OF RECEIPT

GGD Form 8 (2-88)
<p style="text-align: center;">RECORD OF RECEIPT</p> <p>Received from the U.S. General Accounting Office a letter, dated, _____, notifying the Joint Committee on Taxation of its intent to initiate an audit pursuant to the authority granted the General Accounting Office in P.L. 95-125 and section 6103 of the Internal Revenue Code.</p> <p style="text-align: right;">_____ Joint Committee on Taxation</p> <p style="text-align: right;">_____ Date Received</p> <p style="text-align: right;">_____ Time Received</p>

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APPENDIX 7. SAMPLES OF AGENCY HEAD LETTERS

The Honorable Roscoe L. Egger, Jr.
Commissioner of Internal Revenue
Department of the Treasury

Dear Mr. Egger:

Pursuant to the authority granted us in 31 U.S.C. 713 and Section 6103 of the Internal Revenue Code, we are conducting a study of the Internal Revenue Service's Office of Chief Counsel. To effectively carry out our work, we will need access to tax returns and return information.

Pursuant to the procedures noted in Section 6103 of the Code, we notified the Joint Committee on Taxation on May 24, 1983 of our intent to initiate this audit. Copies of our letter and the receipt signed by the joint committee are enclosed.

Accordingly, this letter is to formally notify you of our audit and request access to appropriate tax returns and return information. Mr. Norman Stubenhofer will be in contact with IRS to work out the arrangements for obtaining the necessary information.

Sincerely yours,

Comptroller General
of the United States

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The Honorable Martha A. McSteen
Acting Commissioner of Social Security
Department of Health and Human Services

Dear Mrs. McSteen:

Pursuant to the authority granted us by Section 6103 of the Internal Revenue Code, we are initiating a study of the effects of uncredited or erroneously credited earnings on individuals' Social Security eligibility and benefit amounts. To effectively carry out our work, we will need access to tax returns and tax information.

We notified the Joint Committee on Taxation on August 23, 1984, of our intent to initiate this study. Copies of our letter and the receipt signed by the joint committee are enclosed.

Accordingly, this letter is to formally notify you of our study and our requirement for access to appropriate tax returns and return information. Mr. Joseph Delfico or Mr. Joseph Kredatus will contact the agency to work out the arrangements for obtaining the necessary information.

Sincerely yours,

Comptroller General
of the United States

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APPENDIX 8. SAMPLES OF LIAISON LETTERS

Use this letter when assignment is self-initiated or being done at request of a member of Congress or a committee not authorized access to tax information.

Mr. Robert L. Rebein
Assistant Commissioner (Inspection)
Internal Revenue Service

Dear Mr. Rebein:

This letter is to notify you that the Information Management and Technology Division of the General Accounting Office plans to initiate an audit (Job Code 510015) of the computer-based systems supporting IRS' information returns program (IRP). The objectives in this regard are to determine (1) whether the IRP computer-based systems contain sufficient internal controls to ensure accurate and reliable data processing; (2) whether the current IRP computer-based systems and document matching methodology are as efficient and effective as possible or whether alternative computerized methodologies would be more efficient and effective; and (3) the potential impact that the Tax Equity and Fiscal Responsibility Act of 1982 will have on the existing IRP computer-based systems regarding capacity to process additional information returns.

On September 12, 1983, we notified the Chairman, Joint Committee on Taxation, of this audit and stated that to carry out the objectives, it would be necessary for us to obtain tax returns and return information from the Internal Revenue Service. Copies of that letter and the joint committee's signed receipt are enclosed. A copy of the Comptroller General's subsequent notification letter to the Commissioner is also enclosed.

We would like to begin work during the week of October 31, 1983. We plan to visit the National Office; National Computer Center, Martinsburg; North Atlantic Region, Andover Service Center; and Western Region, Fresno Service Center. If we need to expand to additional locations, we will identify those for you at a later date.

We would appreciate your advising appropriate officials of our plans. If you have any questions concerning this job please contact me on 275-6407 or Ted Gontor of our Information Management and Technology Division on 275-4797.

Sincerely yours,

Johnny C. Finch
Senior Associate Director

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Use this letter when assignment is conducted as duly designated agent.

Mr. Robert L. Rebein
Assistant Commissioner (Inspection)
Internal Revenue Service

Dear Mr. Rebein:

This letter is to notify you of our intent to conduct a study of the use of the research and experimentation tax credit at the request (copy enclosed) of the House Committee on Ways and Means (Job Code 268189). Our work, which will be conducted pursuant to section 6103(f)(4)(A) of the Internal Revenue Code, pertains to section 44F which provides a 25-percent income tax credit for certain incremental research and development expenditures related to a trade or business. The Committee would like GAO to provide information and data on the (1) characteristics of users of the credit and (2) specific purposes for credit-related research and development expenditures. To carry out this work, we will need access to tax returns and return information.

Our work will be done at IRS' National Office, including the Office of Chief Counsel; its Midwest, Southeast, and Central Regional Offices; its Detroit data center; and its service centers in Chamblee, Kansas City, and Cincinnati. We also plan to carry out work at IRS district offices in Atlanta, Birmingham, Chicago, Cincinnati, Cleveland, Columbia, Des Moines, Detroit, Jacksonville, Milwaukee, St. Louis, and Springfield. If we need to do work in other locations, we will identify those locations for you at a later date.

We plan to initiate this study on March 5, 1984. We would appreciate your notifying the appropriate officials of our plans. If you have any questions, please call me at 275-6407. Thank you for your cooperation.

Sincerely yours,

Johnny C. Finch
Senior Associate Director

Enclosure

**APPENDIX 9. SAMPLE GGD FORM 4, TAX
ADMINISTRATION DISCLOSURE CONTROL DOCUMENT**

GAO Audits: Access to Tax Information

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**APPENDIX 10. CONDITIONS UNDER WHICH GAO WILL ACCEPT FROM THE CONGRESS NAMES
OF TAXPAYERS WHEN AUDITING IRS' ADMINISTRATION OF THE TAX LAWS**

1. STATEMENT OF PRINCIPLE.

a. GAO's policy is not to investigate and report on the tax status of specific taxpayers identified for GAO by others. GAO officials articulated this policy in testimony given before a congressional committee considering passage of the bill which became Public Law 95-125 (now codified at 31 U.S.C. 713):

"In performing an audit of IRS, [GAO] would not be concerned with the identity of individual taxpayers, nor . . . would [GAO] impose [its] judgment upon that of IRS in individual tax cases. [GAO] would examine the individual transactions on a sample basis and only for the purpose of evaluating the effectiveness of IRS' operations and activities."

In addition, the legislative history of Public Law 95-125 indicated that

"The purpose of the legislation is to resolve . . . the right of GAO to gain access to records necessary to perform regular audits of the Service. . . .

"[The legislation] scrupulously safeguards the privacy and integrity of income tax returns and information from unauthorized disclosure."
(H.R. Rep. No. 95-480)

b. In accordance with this policy, GAO audits of IRS' administration of the tax laws will normally be based on a random sampling from appropriate universes of tax information rather than on a preselection of individual returns. The circumstances and procedures under which GAO will accept from committees and Members of Congress the names of taxpayers suspected of incorrectly reporting income, expenses, or deductions on their returns are set forth in the guidelines stated in the paragraphs below.

2. WORK DONE UNDER GAO AUTHORITY. When GAO initiates a review pursuant to 31 U.S.C. 713 and section 6103(1)(7) of the Internal Revenue Code, tax information will be obtained by sampling from appropriate universes.

a. Receipt of Names from Tax Writing Committees and Appropriate Oversight Committees or Subcommittees.

(1) If the House Ways and Means Committee, Senate Finance Committee, Joint Committee on Taxation, or committees or subcommittees having a jurisdictional interest in the administration of the tax laws have knowledge of possible incorrect reporting of income, expenses, or deductions on returns by specific taxpayers and want to provide the names of such taxpayers to GAO for audit purposes, GAO will first suggest that they give the information directly to the Internal Revenue Service. If these committees still want to give the taxpayers'

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names to GAO, GAO will accept them upon receipt of a letter signed by the chairman of the committee or subcommittee or by the Chief of Staff of the Joint Committee on Taxation.

(2) GAO will not accept taxpayers' names for audit purposes from any other congressional committee or Member. GAO will advise other committees and Members that they should send the names directly to the Internal Revenue Service.

b. General Operating Procedures.

(1) GAO may analyze the tax information provided to it by the tax writing committees or by committees or subcommittees having a jurisdictional interest in the administration of the tax laws to gain a better understanding of the issues involved in an ongoing or planned review GAO might make of the way IRS administers the tax laws.

(2) GAO will not intentionally incorporate any names or information so provided into any samples it draws to carry out its audits of IRS' administration of the tax laws. However, if such names are selected as part of a random sampling of appropriate universes, GAO will analyze the circumstances of that taxpayer in the same way it would for all taxpayers so selected.

(3) GAO will not report or disclose to anyone outside of IRS or GAO the names of taxpayers included in its samples or any information on sampled taxpayers. Nor will GAO advise anyone who gave it taxpayers' names or any information obtained by GAO about those taxpayers.

(4) The disclosure restrictions cited above are consistent with the December 15, 1977, conclusion of the GAO General Counsel that:

"... except when we act as agents of a committee or subcommittee pursuant to section 6103(f)(4), we do not believe that section 6103 authorizes us to disclose to a committee or subcommittee of Congress any tax return or any return information obtained during the course of a self-initiated audit of IRS."

3. WORK DONE UNDER COMMITTEE AUTHORITY.

a. When designated by the House Ways and Means Committee, Senate Finance Committee, or Joint Committee on Taxation pursuant to section 6103(f)(4) of the Internal Revenue Code, GAO can accept the names of taxpayers from such committees and report back information on such taxpayers to those committees. GAO can do the same when designated by other committees acting pursuant to an appropriate congressional resolution under the provisions of section 6103(f)(4) of the Internal Revenue Code.

b. However, even in these cases it is GAO policy to encourage the above-mentioned committees to provide the names of specific taxpayers directly to the Internal Revenue Service if there is any suspicion on the committees' part that the taxpayers have incorrectly reported income, expenses, or deductions.

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APPENDIX 11. SAMPLE FORMATS FOR ANNUAL REPORT

1. Sample format for open recommendations to the Congress.

SELF-EMPLOYMENT INCOME REPORTED
FOR CREDIT TOWARD SOCIAL SECURITY
BENEFITS ALTHOUGH TAX NOT PAID

B-137762
8-9-73
and
GGD-77-78
8-8-77

Summary of finding

IRS reports to the Social Security Administration the amount self-employed persons designate on their income tax returns as self-employment income even though such persons may not have paid the applicable self-employment social security tax. The self-employed person thus receives credit toward social security benefits even if that person has not made the required contribution.

Recommendation

We recommended that the Congress amend section 205(c) of the Social Security Act (42 U.S.C. 405(c)) to prohibit a person from receiving credits toward social security benefits if that person has not paid the required tax on self-employed income.

Action taken and/or pending

During the 95th Congress, the Chairman of the Ways and Means Oversight Subcommittee introduced H.R. 12565, the "Self-Employment Tax Payments Act of 1978," which contained the substance of our recommendation. However, no action was taken on the bill.

In 1979 the Chairman of the Ways and Means Oversight Subcommittee reintroduced the bill which was renumbered as H.R. 5465 and was referred to the Subcommittee on Social Security. The subcommittee did not take action on the bill during the 96th Congress. No further action has been taken.

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2. Sample format for legislative action taken during the year on recommendations.

DELINQUENT TAXPAYERS DUE REFUNDS
ARE NOT PENALIZED FOR FILING LATE

GGD-79-69
B-137762
7-11-79

Summary of finding

Section 6651(a) of the Internal Revenue Code does not encourage nonfilers due refunds to file on time because they are not penalized for filing late. Late filing penalties are assessed only on nonfilers who owe taxes.

Recommendation

We recommended that the Congress amend section 6651(a) of the Internal Revenue Code to provide for a similar late filing penalty on nonfilers due refunds.

Action taken and/or pending

The Tax Equity and Fiscal Responsibility Act of 1982 adopted our recommendation by providing for a penalty when an income tax return is not filed within 60 days of the due date, whether or not taxes are owed.

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3. Sample format for recommendations made to the heads of federal agencies concerning the administration of taxes and/or the use of tax information.

IRS HAS NOT REVIEWED THE FINANCIAL
SOUNDNESS OF THE TEAMSTERS' CENTRAL
STATES PENSION FUND

HRD-82-13
B-199238
4-28-82

Summary of finding

ERISA requires that employee pension plans satisfy minimum funding standards each year and that each plan submit an annual report and actuarial data to enforce ERISA's minimum funding standards.

Since 1975, the trustees of the Teamsters' Central States Southeast and Southwest Areas Pension Fund have had five actuarial valuations of the fund's financial soundness. The last report, issued on April 3, 1981, stated that the current funding should satisfy ERISA's requirements and that the fund is operating on a sound financial basis. However, the actuary's report described some problems and situations that could have serious financial implications for the fund. Consequently, the actuary recommended that until the effects of deregulation on the trucking industry and the Multi-Employer Amendments Act of 1980 can be evaluated, the fund should adopt a conservative posture with respect to any liberalizing of benefits. Moreover, the actuary's April 1981 report showed that the fund's unfunded accrued liability for current and future pension benefits was about \$6.05 billion at January 1, 1980. In this regard, IRS needs to closely monitor the financial status of the fund to assure that it, in fact, meets ERISA's funding standards.

Recommendation

We recommended that the Commissioner of Internal Revenue direct IRS officials to closely monitor the fund's financial operations to ascertain that the fund meets the minimum funding standards of ERISA and, if not, take whatever action is needed to assure that the fund meets the act's requirements.

Action taken and/or pending

IRS stated that the fund's July 1982 annual report would be thoroughly examined to ensure compliance with the minimum funding standards.

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4. Sample format for reports on tax matters.

REPORTS ON TAX MATTERS ISSUED DURING 1982

<u>Title</u>	<u>Date</u>
Legislative and Administrative Changes to Improve Verification of Welfare Recipients' Income and Assets Could Save Hundreds of Millions (HRD-82-9)	1/4/82
Excessive Specifications Are Limiting Competition for IRS Special Design Tax Return Folders (GGD-82-61)	3/24/82
Investigation to Reform Teamsters' Central States Pension Fund Found Inadequate (HRD-82-13)	4/28/82
The Federal Government Can Save \$1.7 Million Annually by Eliminating Strip Stamps (GAO/GGD-82-60)	5/7/82
Uncertainties about the Definition and Scope of the Property Concept May Reduce Windfall Profit Tax Revenues (GAO/GGD-82-48)	5/13/82
Key Issues Affecting State Taxation of Multi-jurisdictional Corporate Income Need Resolving (GAO/GGD-82-38)	7/1/82
Impact of the Paperwork Reduction Act on the Internal Revenue Service's Ability to Administer the Tax Laws (GAO/GGD-82-90)	7/6/82
Compilation of GAO's Work on Tax Administration Activities During 1981 (GAO/GGD-82-82)	7/22/82
Further Research into Noncompliance is Needed to Reduce Growing Tax Losses (GAO/GGD-82-34)	7/23/82
Changes to Appeals Process Could Improve Settlements and Increase Taxpayers' Satisfaction (GAO/GGD-82-54)	7/28/82

5. Sample format for testimony on tax matters given by GAO officials during the year.

TESTIMONY ON TAX MATTERS
GIVEN BY GAO OFFICIALS DURING 1982

<u>GAO Official</u>	<u>Congressional Committee</u>	<u>Subject Matter</u>	<u>Date</u>
William J. Anderson, Director, General Government Division	Subcommittee on Commerce, Consumer and Monetary Affairs, House Committee on Government Operations	Adequacy of IRS' Resources	3/17/82
Morton A. Myers, Director, Program Analysis Division	Senate Finance Committee	Taxation of In- surance Companies	3/18/82
William J. Anderson, Director, General Government Division	Subcommittee on Oversight of the Internal Revenue Service, Senate Finance Committee	Senate Bill 2198, Taxpayer Compliance Improvement Act of 1982	3/22/82
William J. Anderson, Director, General Government Division	Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs	Status of IRS' Taxpayer Service Program	3/24/82
Daniel F. Stanton, Deputy Director, General Government Division	Subcommittee on Oversight of the Internal Revenue Service, Senate Committee on Finance	Senate Bill 2369, Independent Contractor Tax Classification and Compliance Act of 1982	4/26/82
William J. Anderson, Director, General Government Division	Subcommittee on Oversight, House Committee on Ways and Means	IRS Policies and Procedures to Safeguard Taxpayer Rights and the Effects of Certain Provisions of the 1976 Tax Reform Act	4/26/82

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6. Sample format for scope and subject matter of audits requiring access to tax information initiated during the year.

SCOPE AND SUBJECT MATTER OF
JOBS INITIATED DURING 1982
PURSUANT TO 31 U.S.C. 713

<u>Subject matter</u>	<u>Objective/scope</u>	<u>Month started</u>
IRS Taxpayer Assistance	To obtain information on who uses IRS assistance and what assistance the users or taxpayers in general need. To evaluate the resulting data to determine how IRS could use its limited resources more effectively.	January
Multi-Employer Pension Plan Amendments Act of 1980	<p>To assess the impact of the act and its provisions on (1) participants, beneficiaries, employers, employee organizations, and other affected parties, and (2) the self-sufficiency of the insurance fund established to guarantee payment of basic benefits of insolvent multi-employer plans.</p> <p>To address the usability of multi-employer pension plan data maintained by the government.</p> <p>To monitor efforts of IRS, Labor, and Pension Benefit Guaranty Corporation to administer the act.</p> <p>To assess effects of the basic withdrawal liability provisions of the act.</p>	January

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APPENDIX 12. 31 U.S.C. 713, 719(d)

AUTHORITY TO AUDIT IRS (31 U.S.C. 713)

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b))) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

ANNUAL REPORT TO CONGRESSIONAL COMMITTEES (31 U.S.C. 719(d))

(d) The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

(2) the scope and subject matter of audits under section 713 of this title; and

(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.

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APPENDIX 13. GAO ACCESS TO TAX INFORMATION AUTHORIZED
IN 26 U.S.C. 6103(1)(7)

(A) Comptroller General.—

(A) Returns available for inspection.—Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) Audits of other agencies.—

(i) In general.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) Information from secretary.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (i) or (m)) to be made available to the Federal agency for use in such program or activity shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

(iii) Requirement of notification upon completion of audit.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) Certain restrictions made applicable.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) Disapproval by Joint Committee on Taxation.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

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**APPENDIX 14. PROCEDURES AND RECORDKEEPING TO SAFEGUARD
TAX INFORMATION IN 26 U.S.C. 6103(p)(1)
THROUGH (p)(6)**

(p) Procedure and Recordkeeping.—

(1) **Manner, time, and place of inspections.**—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) Procedure.—

(A) **Reproduction of returns.**—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) **Disclosure of return information.**—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) **Use of reproductions.**—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) Records of inspection and disclosure.—

(A) **System of recordkeeping.**—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h)(1), (3)(A), or (4), (i)(4) or (7)(A)(ii), (k)(U), (2), or (6), (1)(1), (4)(B), (5), (7), (8), (9), (10), or (11), (m) or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) **Report by the Secretary.**—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

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(C) Public report on disclosures.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d), G(X)(B)(i), or (I)(6), and the General Accounting Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests or otherwise,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made.

(4) Safeguards.—Any Federal agency described in subsection (h)(2), (h)(6), (i)(1), (2), (3), or (5), (j)(1) or (2), (I)(1), (2), (3), (5), (10), or (11) or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d), G(X)(B)(i), or (I)(6), (7), (8), or (9) shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), G(X)(B)(i), or (I)(6), (7), (8), or (9) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), (h)(6), (i)(1), (2), (3), or (5), (j)(1) or (2), (I)(1), (2), (3), (5), (10), or (11) or (o)(1), or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise made such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under subsection (m)(2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency).

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(5) Report on procedures and safeguards.—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) Audit of procedures and safeguards.—

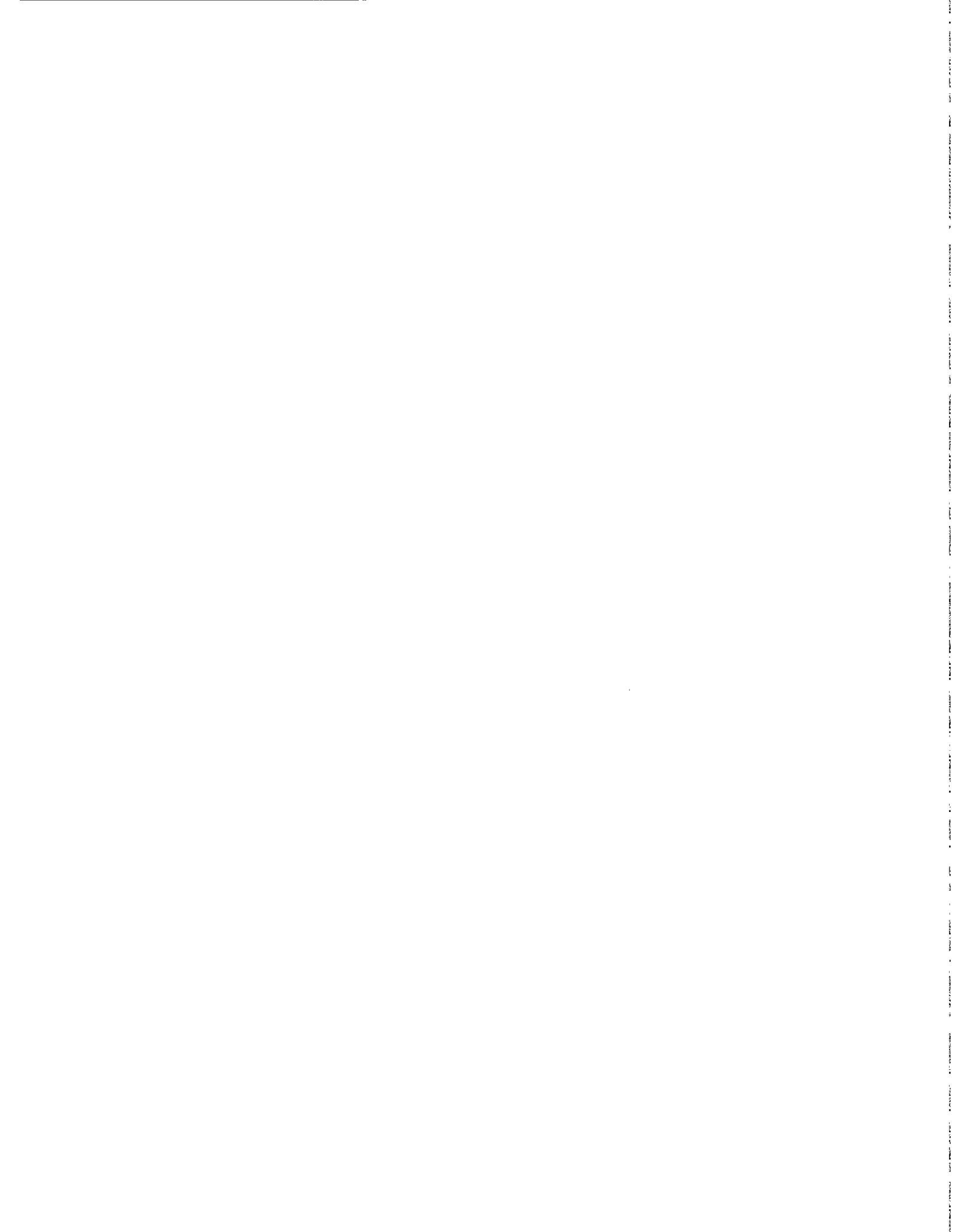
(A) Audit by Comptroller General.—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

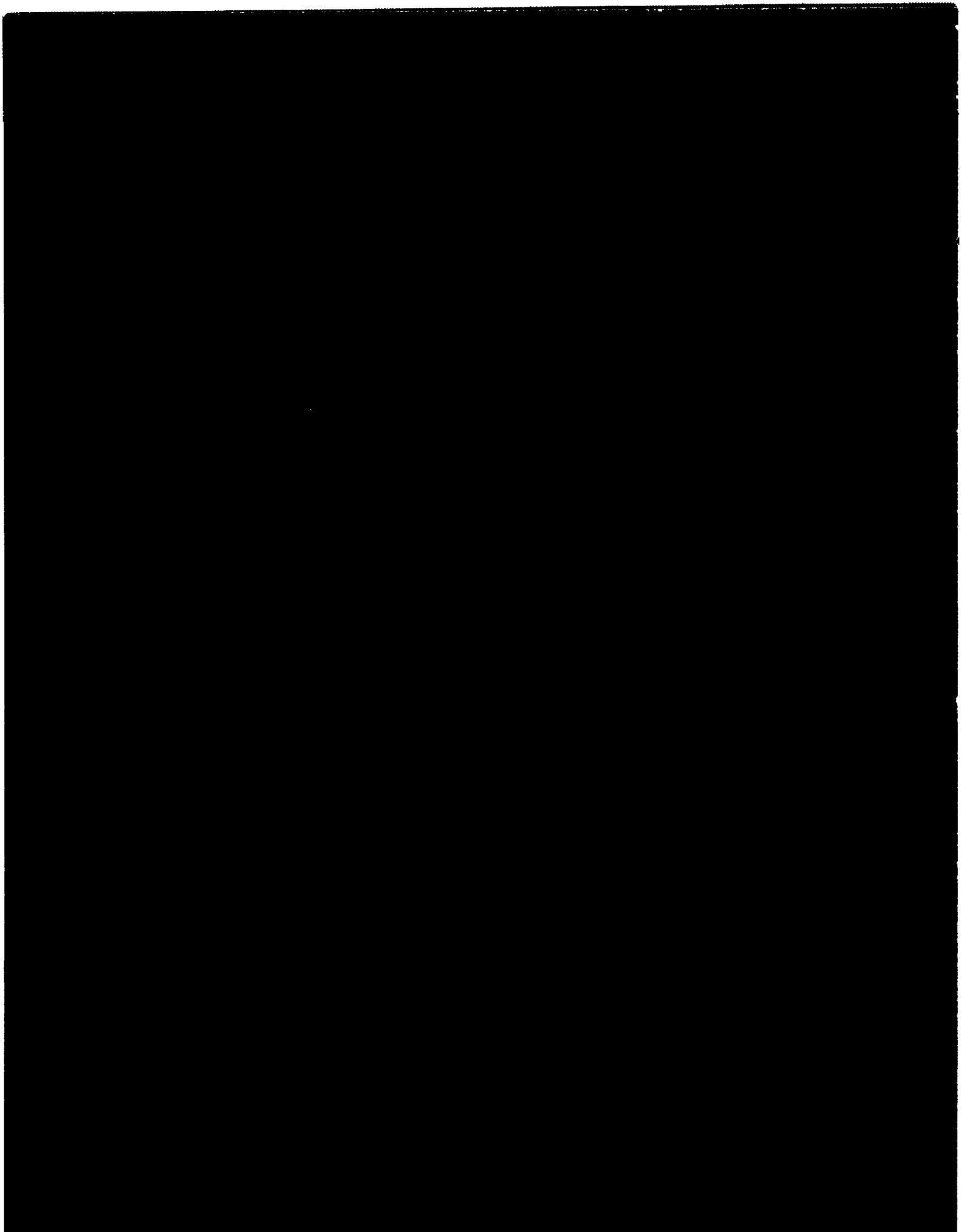
(B) Records of inspection and reports by the Comptroller General.—The Comptroller General shall—

(i) maintain a permanent system of standardized records and accounting of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(7)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe; and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).





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