

IRS CONFIDENTIALITY STATUTE

I. JFK ACT

- A. §11(a): When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (**except § 6103 of the Internal Revenue Code**), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Govt.

II. § 6103 of INTERNAL REVENUE CODE (25 pages of U.S. Code)

- A. returns and return information shall be confidential... (a)
- B. defns: (b)
 - 1. return: (1)
 - a. any tax or information return...
 - b. filed with the Secretary,
 - c. by, on behalf of, or with respect to any person.
 - 2. return information: (2)
 - a. information re:
 - i. taxpayer's identity,
 - ii. taxpayer's financial information,
 - iii. whether the return is subject to investigation or processing, etc...
 - A. IRS does not have to reveal the standards it uses to choose the returns to be investigated, etc...
 - b. **does not include data which cannot be associated with, or otherwise identify (directly or indirectly), a particular taxpayer**
- C. signed releases (§ 6103(c))
 - 1. taxpayer can execute a written request for or consent to disclosure of tax information
 - 2. must designate to whom the information will be released.
- D. you have the right to your own information (§ 6103(e))
- E. Congressional exemption (§ 6103(f))
 - 1. note: church Committee said they did not view records of private individuals when they investigated the IRS.
 - 2. **more...**
- F. Disclosure to the Pres (§ 6103(g))
 - 1. permitted with specific reason why info. is requested.
 - 2. executive or judicial apptment
 - a. can release info to the FBI, but only:
 - i. whether the person paid taxes

- ii. whether person is under investigation for tax fraud
 - iii. whether person has been assessed a fine or penalty for tax fraud
 - 3. info can only be disclosed to Pres. or to agency unless Pres. gives written permission.
- G. Disclosure to Federal Officers & Employees for Tax Administration
 - 1. to Treasury employees whose official duties require review.
 - 2. to DOJ in tax admin. matter
- H. Disclosure to Federal Employees & Officers for admin. of federal laws not relating to tax admin.
 - 1. criminal investigations
 - a. need court or magistrate order
 - b. can be viewed by those conducting the investigation for violation of a Federal criminal statute:
 - i. enforcing a Federal

III.

Questions:

- * what about non-persons? (e.g. tax returns of corporations etc...)
- * section 6103(b)(1) says "any person"