

Treasury Documentation

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INTRODUCTION

“Disclosure” is a term used to describe the release of information by Michigan Department of Treasury (Treasury) to taxpayers, authorized representatives of taxpayers, the general public, and federal and local agencies in accordance with the Revenue Act (Act 122 of the Public Acts of 1941, as amended). “Confidential” information includes both return information, information or parameters regarding audit selection, processing or collection criteria, or other facts or information obtained in connection with the administration of a tax.

The Revenue Act states that an employee or authorized representative or former employee or former authorized representative or anyone connected with Treasury shall not willfully inspect or disclose any return or information contained in a return unless it is appropriate for the proper administration of a tax law administered under this act. This Bulletin gives details and examples of the types of situations where browsing and disclosure is or is not authorized. The Revenue Act makes it a felony for violation of its confidentiality provisions, and provides for a fine of not more than \$5,000 for imprisonment for not more than five years, or both, together with the costs of prosecution in addition to dismissal from employment. These provisions are detailed in Policy ET-03016 in the Employee Handbook on Treasury’s Intranet.

Information obtained from the Internal Revenue Service (IRS) may not be disclosed under the provisions of the Revenue Act.

Persons having access to tax documents, whether state or federal, are advised not to divulge any facts or information obtained in connection with the administration of a tax unless authorized.

Individuals shall not request and/or obtain a tax return, tax document, or information available in computer tax files unless it is obtained for the performance of official duties and in accordance with established procedures.

GENERAL RULES FOR DISCLOSURES

Returns and return information are confidential and may not be disclosed except when authorized by the Revenue Act. This rule applies to all present and former Treasury employees; other state, local and federal employees; and private contractors or their employees granted access to Treasury tax return information.

To know how this rule affects the performance of your job, terms such as confidential tax information, disclosure, return, return information, and information obtained in the administration of tax must be defined. The term “confidential tax information,” as used in this Bulletin, refers to returns, return information, and information obtained in the administration of a tax.

“Disclosure” is the act of making tax information known to any person in any manner.

A “return” is any tax return, information return, schedules or attachments to a return, or schedule filed with the State. A return also includes any amendments or supplements to the return filed by or for a taxpayer.

“Return information” includes any information contained on a tax return and supporting schedules, attachments or lists. Returns include information returns, declarations of estimated tax, claims for refund and any related amendments. Information is “return information” if it relates to the liability or potential liability of a taxpayer for any tax, penalty, interest, fine, forfeiture, etc. The fact that a taxpayer filed or did not file a return is return information.

“Information obtained in the administration of a tax” includes “returns,” “return information,” and any information other than the taxpayer’s return which the State has obtained from any source or developed through any means concerning a person’s tax matters. For example, information obtained during an investigation is return information. Administration information also includes audit selection criteria, processing procedures, and collection procedures and criteria. This restriction ensures that the auditing integrity of the data processing systems is not compromised by taxpayers attempting to alter their filing practices or avoiding payment of taxes.

Treasury’s Disclosure Officer should be contacted for any questions regarding disclosure and security operating procedures or as indicated in this Bulletin.

DISCLOSURES TO AUTHORIZED PERSONS

The primary consideration in handling a request for tax information is whether the person requesting the information is entitled (“authorized”) to receive it. It also must be verified that the person who is making the inquiry or request for information is, in fact, that authorized person.

Taxpayers are entitled to receive information about their own account or return. The taxpayer may be a spouse on a joint return, a partner in a partnership, or officer of a corporation depending on the type of tax account. Other persons may also be designated by the taxpayer as “authorized” to receive information.

Depending on the method of request or contact, different methods can be used to verify requester identity. Personnel handling taxpayer inquiries or correspondence should be reasonably satisfied that the requester is who they claim to be. Questions concerning proper identification of persons requesting return information should be referred to supervisory personnel.

DETERMINING IDENTITY

Requests by Telephone

When handling telephone inquiries, the following guidelines should be observed.

Ask the caller to establish their relationship to the tax information sought. Know who you are speaking to.

- Is the call about an individual or business?
- Is the caller making an account call or looking for general information that is not taxpayer specific?

Account Call

If an account call, ask the caller to establish their relationship to the taxpayer. If the caller is not the taxpayer, do not speak with the person until a signed *Authorized Representative Declaration (Power of Attorney)* Form 151 is received with the following **exceptions**:

- Expressed consent is established in writing or verbally by telephone.
- Implied consent is established by the action of the taxpayer. Providing Treasury correspondence to a preparer or family member. It is always important to verify consent by verifying the identity of the representative. There are things the caller must know in order to verify that consent for disclosure has been given.
- Taxpayer uses Michigan Relay Service for teletype or video telecommunications. Staff can type “shared-secret” questions to determine if implied consent has been given to the caller. The interpreter must be able to provide shared secrets to establish a relationship with the account.
- Taxpayer is on the phone with a third party (e.g., interpreter is on the phone and Treasury employee feels comfortable that the taxpayer is consenting to the disclosure).
- Taxpayer is deceased. The person whose name is on the second name line may be given information.

If a taxpayer is calling for themselves, ask the caller to identify these items as they appear on the tax return or in Treasury records:

- Taxpayer name
- Taxpayer address of record
- Identifying numbers (Social Security number (SSN), Federal Employee Identification Number (FEIN), and Treasury assigned number). If a joint return, both numbers are not necessary.

If the taxpayer requests tax account information be mailed to their address of record, authentication is not necessary, so long as account information will not be provided verbally. If the taxpayer requests information be mailed to a third party, a signed written consent to release tax return information must be executed by the taxpayer.

In responding to telephone requests from taxpayers, no return information may be given out unless it relates to a notice, billing, letter initiated by Treasury or refund inquiry. The following data must be obtained from the caller before information can be disclosed:

1. Taxpayer’s name as it appears on the tax return or collection ledger
2. Taxpayer’s address of record
3. Taxpayer’s identification number (SSN or FEIN)
4. In the case of a refund inquiry:
 - A. Type of tax refund (business, sales, income, etc.)
 - B. Tax period

C. Approximate amount of expected refund unless computed by Treasury (e.g., MI-1040EZ), **and**

D. Manner in which the return was filed (e.g., individual separate return, joint return).

If the taxpayer cannot remember the refund amount, ask for another line item from the return.

Verify all information received to Registration, STAR, TREAS, CRM or Michigan Accounts Receivable Collection System (MARCS) records.

Do not volunteer any more information than what is necessary after the taxpayer's identity is determined or a Form 151 is on file for the taxpayer. If some doubt remains as to the identity of the requester, the caller should be given the opportunity to call back with more information, file a written request, or have the information mailed to the address on record.

Requests in Person

Taxpayers requesting returns or return information in person should provide the same data as listed above. Also, sufficient evidence that the person is, in fact, the taxpayer or other authorized person should be provided.

Requests in Writing

It is preferred that requests for returns or return information be in writing, either to the Disclosure Officer or the appropriate office/division. A written authorization must include the following:

1. Taxpayer's name, address, and account number.
2. Time period for which the authorization is effective. If a date is not provided, the effective date may be presumed to be the date Treasury received the written authorization. Further, the Revenue administrative rule states that Treasury may presume there is no expiration date for the matters specified; however, Treasury should be cautious if the Form 151 or written authorization is more than 18 months old and there has been no known activity regarding the account. The taxpayer or authorized representative may be requested to refresh the Form 151.
3. Name, address, and telephone number of the taxpayer's representative.
4. Type of return, tax type, and period to be disclosed.
5. Taxpayer's signature and date of signature.

Identification is not required for written requests. However, if there are doubts about a person's identity, employees should request additional identity information or offer to send the requested information by mail to the taxpayer's name and address on record.

DETERMINING AUTHORITY TO RECEIVE INFORMATION

Joint Returns

Joint account information is available to either taxpayer, regardless of whether the spouse requesting the information signed the return or consented to the joint filing.

Spouses are not entitled to information if they are not named on the returns/assessments. (This also includes corporate officers, successors, or general partner obligations.) Therefore, care must be exercised to guard against divulged confidential information to non-affected spouses or former partners. Further, current address, employment, and/or collection information regarding one joint filer may not be divulged to another joint filer where the joint filers are separated or divorced. Where no joint return was filed and a spouse has been claimed as an exemption on the return, that spouse may not be given information without written authorization from the taxpayer.

Partnerships

Partnership return information may be disclosed to any person who is a current partner during any period covered by the return. Current partners can have access to information for periods in which they were not a partner. Likewise, previous partners are not entitled to information for periods during which they were a partner. Partners are not entitled to current address, employment, and/or collection information regarding other partners. Previous partners must get authorization from current officers to obtain any return information.

Corporations

Corporate return information may be disclosed to the following:

1. Any corporate officer authorized by the corporation in accordance with applicable state law to legally bind the corporation.
2. President.
3. If not the President, Treasury must ask the individual if they can legally bind the corporation.
4. Chief Executive Officer.
5. Any person designated by resolution of the corporate Board of Directors or other similar governing body.
6. Any **officer** who signed the return on behalf of the corporation and who is still employed by the corporation in the same capacity with the same authority.
7. Any **employee** who signed the return on behalf of the corporation and who is still employed by the corporation in the same capacity with the same authority.
8. Any bona fide shareholder of record owning 1 percent or more of the outstanding stock of the corporation upon submitting documentation which reasonably demonstrates such ownership. Shareholder may have access to returns and return information for all years.

9. Shareholder of a subchapter S Corporation, regardless of percent of ownership, may receive Subchapter S return and return information so long as the person was a shareholder during some part of the year in question.
10. If corporation dissolved, any person authorized by State law to act for the corporation, or any person who has a material interest which will be affected by information contained in the return or return information.
11. If a corporation has filed a consolidated return which includes the return of a subsidiary, the entire return and return information is the return or return information of the subsidiary. Whether or not consolidated returns have been filed, person authorized to act for the parent corporation may request and receive returns and return information of the subsidiary.

Example: A Treasury employee calls Baker's Delight, Inc. office regarding a balance due case. The receptionist, Ms. Ash, says that all of the officers are out of the country for a meeting. Ms. Ash owns one share of stock and wants to know the reason for the call since she is a stockholder. Since Ms. Ash is not an officer or signer of returns, you may not disclose confidential tax information.

12. Limited Liability Corporation (LLC). An LLC must make an election as to how it wants to be treated, that is, as a partnership, corporation or S corporation. A check of the single business tax return will reveal how LLC elected to be treated.

If the LLC elects to file as a regular corporation, it will follow the corporate rules, that is, the corporate officer must be able to bind the corporation or own 1 percent or more of the outstanding stock.

If the LLC elects to file as a partnership or an S corporation, it will follow the partnership or S corporation rules. A member of these entities is entitled only to the returns of the partnership or the S corporation for the tax period that they were a partner or shareholder.

Local Government Units

Requests for returns must be made in writing on appropriate government letterhead and addressed to Treasury's Disclosure Officer.

Trust*

The trustee or trustees, jointly or separately, may receive returns and return information of a trust.

The requester must furnish satisfactory evidence that they are a trustee or beneficiary of the trust. A person with a reversionary interest in a trust will be considered a "beneficiary" or "trustee" only if they are accorded such status by the law of the State under which the trust was established.

*Because a determination must be made regarding whether proper court authorization has been provided or a beneficiary has a material interest, the request should be routed to the Disclosure Officer.

Beneficiaries of the trust may receive returns and return information of the trust only if the beneficiary shows a material interest which will be affected by them. A material interest is an important interest and is generally financial in nature.

Decedents*

Information may be disclosed to the executor, administrator, or trustee of the estate provided written evidence such as a copy of the will or court appointed officer is furnished.

Incompetent Persons*

Information may be disclosed to the court-appointed committee, trustee, guardian, fiduciary, administrator, and executor of the estate provided written evidence establishing their rights and authority is furnished.

“Incompetent” persons may be minors, the insane, senile, disabled, or otherwise incapable of fully administering their affairs.

Durable Power of Attorney

A Durable Power of Attorney form is uniquely different from a general or limited power of attorney form, in that it is not subject to a time limitation and the authorization continues to be valid even after the grantor (taxpayer) becomes incapacitated or incompetent. However, it becomes invalid upon the death of the grantor revokes the Durable Power of Attorney.

Due to the technical nature of a Durable Power of Attorney form, processing questions should be referred to the Disclosure Office.

Relatives

Relatives (except spouses on joint returns) are third parties and the rules described below under “Representatives or Designees” apply.

Representatives or Designees

Any person who qualifies to receive confidential tax information may authorize a third party to receive the data on their behalf. (See Policy ET-23021 regarding third party representative requirements.)

Confidential tax information may be disclosed to persons designated by the taxpayer in a written request for or consent to disclosure. The designation of authority must be in writing, even if the third party has a copy of a bill or notice regarding the taxpayer’s account. In the absence of a written request or authorization, only general information relative to the meaning of the bill or notice may be provided.

See exceptions to this requirement under Determining Identity on page 4.

*Because a determination must be made regarding whether proper court authorization has been provided or a beneficiary has a material interest, the request should be routed to the Disclosure Officer.

If the Authorized Representative is listed as the firm or organization on Form 151 and no individual within the firm or organization has been designated, Treasury is restricted and cannot discuss a taxpayer's account with the firm or organization.

Rule 205.1006(8) requires that if a taxpayer's representative is an organization and not an individual, the taxpayer shall designate a contact person within the organization.

Form 151 may be used for the purpose of designating authority to receive confidential information. Also, a copy of the IRS power of attorney for the period(s) in question is acceptable if the form is modified to request Michigan tax return information. If an authorization has been received, the following information appears on STAR's OTHADD and COMENT screens and on MARCS screen:

- Third party's name with Form 151 code "P01" for unlimited authorization or "P02" for limited authorization.
- Third party's address and telephone number.
- Extent of authorization (disclosure of information; specific tax return periods versus blanket power for any period; power to enter in repayment agreements, etc.).

Example: A taxpayer's accountant calls to discuss a client's 2010 individual tax liability. The COMENT screen indicates an authorization for 2009 but not 2010. The accountant claims that is a typographical error and that 2010 was intended. Even if the taxpayer orally verifies that the authorization is for 2010, written authorization must be secured before making the requested disclosure.

Preparers

Generally, return preparers are not entitled to receive returns or return information without written authorization from the taxpayer which conforms to the requirements stated in MCL 208.8 of 1941 or in Administrative Rules R205.1006(8).

The fact that a taxpayer has employed an income tax preparer, who is obviously aware of the information provided on the face of the return he/she prepared, is not used as evidence of the taxpayer's intent that the preparer later have access to the return. The "checkbox" on the tax return must indicate that the taxpayer(s) gives permission to Treasury to discuss issues on that return filing.

Check-off Box on Tax Return

The check-off box on a tax return permits Treasury to contact the tax preparer concerning the contents of the return for which they prepared. Any subsequent discussion or disclosure of correspondence, assessment, or collection activity made by Treasury from adjustments made to a taxpayer's return based on our discussion with the tax preparer or obtained from other sources is prohibited. The taxpayer must execute a written authorization granting the tax preparer authorization to receive or discuss adjustments made to his/her return.

NONSPECIFIC INFORMATION

If return information is not needed but the caller wants to discuss a bill or other correspondence, the taxpayer should be able to provide sufficient information about the bill or correspondence to show implied consent.

These are situations when a caller may want to discuss:

- The meaning of a bill, notice, or other written communication received from Treasury, **or**
- A general procedure to resolve a situation regarding a tax law.

In these cases, the employee may discuss without the need for independent reference to or disclosure of confidential tax information by the Treasury employee.

Example: Mrs. Farmer calls stating that her cousin Mr. Apple received a bill for estimated tax penalty and asked her to find out what it's all about. Mrs. Farmer gives the taxpayer's name and address, but doesn't know the taxpayer SSN. A check of the comments section on STAR or MARCS shows no authorization on file. Confidential tax information cannot be given to Mrs. Farmer, but general information about penalties applying to that type of situation may be given.

A third party can be asked to describe the information of which they have knowledge and explain or discuss it, but additional information may not be discussed.

Example: A potential buyer of a business calls to discuss potential liability. The caller mentions recorded tax liens and the amounts listed on those liens. Attachment of the tax liens can be discussed in general terms. The caller also asks for reported gross sales. This information cannot be disclosed, confirmed, or denied.

In the absence of written authorization, a telephone conference call with the taxpayer and their representative is acceptable. The third party should be advised that the taxpayer must initiate the call. Depending on the circumstances, it may be desirable to send the requested return information by mail to the taxpayer's name and address of record.

Written Request for Specific Return Information by Designee

An authorization for disclosure to allow a designee to receive returns or return information should be a separate written document pertaining solely to the authorized disclosure. For example, a statement contained in a loan application authorizing the loan company to obtain return information would not be sufficient.

An authorization for disclosure must contain the following items:

- Taxpayer's identity including name, address or account number, or any combination thereof, that enables Treasury to clearly identify the taxpayer.

- Name, address, and telephone number of the taxpayer's representative
- Type of return (or specific portion of the return) or return information (including particular data) to be disclosed.
- Taxable period covered by the return or return information.
- Signature of the taxpayer and the date the authorization was signed.

The date the authorization is received should be stamped or otherwise noted on the letter. Any disclosure of information must occur during the period of disclosure specified on the Form 151 written authorization. If a date has not been provided, the effective date may be presumed to be the date Treasury receives the written authorization. Further, the Revenue administrative rules states that it may be presumed there is no expiration date for the matters specified, however, Treasury should be cautious if the Form 151 or authorization is more than 18 months old and there has been no known activity regarding the account. The taxpayer or the authorized representative may be requested to refresh the Form 151 or authorization.

The taxpayer may always authorize disclosure of his/her return but may not compel disclosure of return information. If it is determined that disclosure of return information will seriously impair State tax administration, Treasury may withhold disclosure. Questions on this should be referred to the Treasury Disclosure Officer.

It is not necessary to order returns to verify the taxpayer's signature. If there is a serious doubt concerning the signature or an authorization, additional identification should be sought or an offer should be made to send the information by mail to the taxpayer's name and address of record.

Michigan Relay Service

The written authorization requirement is waived in cases of deaf, hearing- or speech-impaired taxpayer communicating through a Michigan Relay Service (MRS) operator. The MRS is not considered a third party. See Policy ET-03120 in the Employee Handbook.

Receipt of Information from Third Parties

Information may be accepted from a third party even if they do not have a written authorization from the taxpayer. If the information provided is offered in response to a Treasury inquiry (bill, notice, etc.), action may be initiated to resolve the issue/problem. Do not advise an unauthorized third party of any account information. Send a letter to the address of record to advise the taxpayer of any action taken.

For example, cancelled check information may be accepted to initiate a payment tracer on a bill, but no information relative to the balance due or nature of the assessment may be given to the third party.

Legislators or Ombudsmen

Members of the U.S. Congress or State legislature in their official capacity are entitled to no greater access to returns or return information than any other person inquiring about the tax affairs of a third party. Returns and return information are protected from disclosure unless a written authorization is obtained from the taxpayer.

In most instances when taxpayers correspond with a member of Congress or State legislature about some action Treasury has or hasn't taken with respect to their tax matters, they do not provide a formal Form 151 authorizing the legislator to obtain information. In such situations, the taxpayer's letter will authorize the disclosure to the extent it is signed, dated, and indicates the following:

- Taxpayer's identity including name, address, account number, or combination thereof that enables Treasury to clearly identify the taxpayer.
- Identity of the person to whom disclosure is to be made.
- Letters addressed to "Dear Sir/Madam" which do not specifically refer to the legislator would not be sufficient. However, if the legislator attaches the envelope showing that the letter was addressed to them, this is sufficient.
- Sufficient facts to enable Treasury to determine the nature and extent of information or assistance requested, and the returns or return information to be disclosed.
- The signature of the taxpayer and the date the authorization was signed.

Treasury must limit its response to the situation presented by the taxpayer and only disclose the returns or return information necessary to comply with the taxpayer's correspondence. Where a taxpayer authorizes disclosure for "all years" or "all returns" or similar phrase, such as authorization will be acceptable. However, the legislative inquiry must present sufficient facts so Treasury can comply with a specific tax matter. The taxpayer, by his/her own choice, has specified that all information is available to the legislator, and so Treasury may respond to the tax matter.

An authorization to a legislator will not be construed to include a member of his/her staff designated in the legislator's inquiry, identified in general designation from the legislator, or known to be the legislator's staff person for dealing with constituents' tax inquiries. To speak with a legislator's staff member, a separately executed authorization must be presented by the staff person. See "Written Request for Specific Return Information by Designee" for more information.

Legislative Inquiry Without Taxpayer's Correspondence

If a legislator does not enclose a copy of the taxpayer's correspondence or other written authorization from their constituent, it will be necessary to communicate directly with the taxpayer, making reference to the request by the legislator. The legislator should be provided general information to the extent possible. An alternative approach would be to ask the legislator for a copy of the taxpayer's correspondence or other written authorization.

Legislative Telephone Inquiry

If a legislator or member of his/her staff telephones on behalf of a taxpayer, Treasury may provide only general information, such as the meaning of the bill, notice or letter. The caller should be advised that Treasury cannot disclose confidential information without a copy of the taxpayer's correspondence or other written authorization. As an alternative, Treasury can offer to contact the taxpayer directly to resolve the problem.

Legislative Inquiry Involving Court Cast

If a legislator inquires about a pending court action involving a constituent, the inquiry should be referred to the appropriate Office of the Taxpayer Advocate. A legislative liaison is available to assist with legislative inquiries in Treasury.

Treasury Employees

Confidential tax information may be disclosed to other Treasury employees who have a “need to know” the information in connection with the official duties. If you are in doubt about a person’s official “need to know,” do not release any confidential tax information to that person without consulting your supervisor.

Be conscious of your surroundings when speaking to a State employee about tax information. Talk about a taxpayer’s account in a crowded elevator, reception area, or a public cafeteria, may be overheard. This would result in an unauthorized disclosure.

Other State Agencies

Tax information will not be disclosed to other State of Michigan agencies unless the agency has entered into an agreement with the Treasury Disclosure Officer for specifically stated administrative purposes. Unless specifically provided, the State agency must direct their request to the Treasury Disclosure Officer.

If an employee of another agency asks for copies of a taxpayer’s return or administrative information, it is possible that the information may be legally furnished if the person submits the request in writing addressed to the Treasury Disclosure Officer. The request must contain taxpayer identification, reason for the request, reference to Section 28(1)(f) of the Revenue Act, MCL 205.28(1)(f), and must be signed by the director of the agency.

Internal Revenue Service

Information will be disclosed to only those IRS agents or representatives whose names appear on the Exchange Agreement List. Whenever any other person representing themselves as an agent/employee of the IRS makes a request for information regarding our tax files, they must be advised to contact the IRS Disclosure Officer or our IRS Governmental Liaison.

Requests for information from the IRS may be made only by those persons designated by the Treasury Disclosure Officer. When necessary to request copies of a taxpayer’s federal return form the IRS, form F-8796 Request for Return Information must be completed and signed by a person properly designated to countersign on behalf of the Treasury Disclosure Officer.

When quick action is necessary, a properly designated person may call the IRS Disclosure Officer, properly identify his/herself, and request a return. However, a verbal request must be followed by a written request, as described above.

Remember that returns and return information obtained under exchange agreements with the IRS may not be disclosed to any unauthorized party, including other state or local agencies.

Authorized Representatives of Other States

Information may be disclosed to an authorized representative, of other states with whom Michigan has an agreement to exchange tax return/tax information. Treasury is a member of the interstate Federation of Tax Administrators (FTA) who agree to exchange tax return information.

The Treasury Disclosure Officer maintains a list of state representatives who are authorized to request or disclose tax return/tax administration information. Only those listed individuals will be given information from our files. Refer questions to Treasury, Office of Privacy and Security Disclosure Officer.

News Media Inquires

Refer all requests from news media to the Treasury, Office of Communications unless another employee has been designated to handle media inquiries regarding a specific account.

Freedom of Information Act (FOIA)

Members of the public may inspect or obtain copies of non-exempt records pursuant to the FOIA 442 of the Public Acts of 1976, as amended; MCL 15.231-15.246. See Policy ET-03015 and Procedure PT-03029 in the Employee Handbook on Treasury's Intranet regarding the handling of FOIA requests. It is vital that the FOIA coordinator is notified as soon as possible because of timelines associated with this Act.

Certifications

Any member of the public may request certification of a document. Requests for certification should be sent to the Treasury Disclosure Officer. The officer certifies that all copies are from the original documents on file in Treasury and that it is a true and correct copy of the original.

Accounts in Bankruptcy

Tax debts may be discussed with the attorney identified in the bankruptcy petition as counsel for a taxpayer. It is not necessary to obtain a Form 151 from the taxpayer in this instance. However, such discussions with the attorney should be terminated immediately if the attorney advises that they no longer represent the taxpayer. The attorney's status as counsel for the taxpayer should be ascertained if a lapse in time since the filing of the bankruptcy petition or since previous contact has taken place.

Chapter 11 debtors-in-possession may be contacted directly about any tax debts. Contact should be confined to the taxpayers' counsel for any pre-petition debts in Chapter 7 proceedings. Taxpayer in Chapter 13 should not be contacted (regardless of whether their plan of arrangement has been confirmed) as there is a judicial stay against enforcement action. All contact should be made through the taxpayer's counsel. In the case of failure to pay current taxes by taxpayers in Chapter 13 proceedings, it will be necessary to petition the bankruptcy court to convert the cases to Chapter 7 liquidation proceedings.

Estate administrators (Chapter 11) and trustees (Chapter 13) may be informed of a taxpayer's noncompliance with bankruptcy court orders requiring timely payment of current tax debts. Such disclosure may be made without the consent of the taxpayer. Estate administrators and trustees may be provided with copies of letters of taxpayers regarding tax debts within the jurisdiction of the bankruptcy court. Tax debts arising after confirmation of a Chapter 11 plan of arrangement are outside of bankruptcy court supervision.

INVESTIGATIVE DISCLOSURES

Office of Collections

"Return information" may be disclosed only to the extent necessary to gather information to obtain assistance in conducting a tax investigation.

Situations in which disclosures may need to be made to perform employee's job duties arise daily. Examples include:

- Talking with third parties believed to have information pertinent to the investigation
- Determining responsibility for filing a return
- Trying to locate the taxpayer or his/her assets
- Verifying Collection Information Statements.

Disclosure to a person other than the taxpayer or an authorized representative should be made only if necessary information cannot otherwise be reasonably obtained.

Before disclosure is made to a third party who is not the taxpayer, the authorized representative of the taxpayer or an authorized third party, the employee should be assured that the disclosure is proper for the administration of the tax investigation. The employee should always consult with their supervisor if there are any doubts. As a general rule, if the taxpayer is aware of the investigation and is cooperative, unless doing so might hinder the investigation. If it is not possible to obtain the necessary information directly from the taxpayer, disclosures may be made to third parties to obtain information or assistance to complete the investigation. Be cautious in the type and amount of information disclosed.

Example: A Office of Collections employee contacts an employer or financial institution. It may be necessary to disclose the taxpayer's account number in order for the third party to locate the needed records.

OTHER METHODS FOR COMMUNICATIONS OR CONFIDENTIAL INFORMATION

Leaving Information on Answering Machines/Voice Mail

When leaving a voice mail message on an answering machine, the employee should identify that they are from the State of Michigan. If the call is in response to an earlier taxpayer inquiry or request, acknowledgment can be made that the call is in response to an earlier inquiry/request. The employee may not indicate the specific nature of the original request/situation nor reveal the specifics around the return call if confidential information is involved.

E-Mail

Treasury employees are permitted to e-mail other Treasury employees within Microsoft Outlook who have a need to know taxpayer information in the performance of their official duties. However, employees may not e-mail taxpayer information to other governmental agencies within the State's communication network or over the Internet to other persons, unless specifically authorized by Treasury.

Faxing to Taxpayer or Taxpayer's Authorized Representative

Faxing tax return information to a taxpayer or the taxpayer's authorized representative is consistent with Treasury's policy which allows for the telephone disclosure of tax information and the mailing of tax information to third parties.

Before any return information is faxed, Treasury employee must have either verbal or written approval from the taxpayer or the taxpayer's authorized representative. Faxing will be prohibited if Treasury is statutorily required to mail the document or the taxpayer is required to submit original documents.

Always establish the taxpayer's identity before faxing any information to a taxpayer or the authorized representative. If the caller identifies themselves as the taxpayer's representative, a valid Form 151 must be on file with Treasury before entering into any discussion or faxing of tax information. The attached telephone guidelines must be observed. If there is any doubt to the identity of the caller, the information should be sent by mail to the taxpayer's address of record.

If the caller is requesting Treasury tax information, the telephone request should be documented by recording the following information in the taxpayer's file or in a system of records maintained by Treasury.

- Caller's identity
- Fax telephone number
- Caller's telephone number
- Verification that caller (if the representative) had a Form 151 or authorization on file with Treasury
- Date of fax transmission
- A copy of the confirmation that the fax was successfully transmitted.

Faxing Between Treasury Employees

Faxing between Treasury Revenue and Collection employees is permissible to the extent the other employee has an official need to know the information. Use a Treasury Department fax cover sheet with all transmissions.

Using the Proper Fax Transmittal

Any tax information faxed must be protected to the extent possible. The Treasury employee must use an approved fax transmittal cover sheet. It should be the first page of the information to be faxed. The fax cover sheet should not include any references to the taxpayer's tax return information being faxed.

OTHER DISCLOSURE PROVISIONS

Treasury tries to keep the public informed about its operations and furnishes requested information to the extent that disclosure is not prohibited by statute an official policy. If questions arise as to what information is available to the public, consult supervisor. The topics below summarize some of the other disclosure provisions. Again, consult supervisor if questions on these or other topics arise regarding disclosure.

Internal Documentation and Training Materials Development

Examples of returns and return information extracted from actual returns must first have actual taxpayer identification information removed before they are made a part of internal documentation or training materials. Fictional examples of similar situations may be created.

These examples may not contain the identity of the taxpayer or any information which could be considered attributable to a particular taxpayer (name, business name, address, etc.).

The following guidelines should be observed in developing examples.

1. Names and addresses which should not be used include:
 - A. Any name or address which may easily be mistaken for or associated with a real person or place.
 - B. Any name or address which may be associated with any prominent person, living or dead, from the political, scientific, entertainment, sports, or other fields.
 - C. Any name or address which may have an ethnic or racial identification. However, a name having an ethnic or racial identification may be used if necessary to illustrate an instruction which depends upon the use of that name, such as how to construct a Name Control, how to file records, or how to transliterate from a foreign alphabet.
 - D. Any name or address which may be seen as casting reflections on the character or behavior of any person or of taxpayers in general, or which may be seen as whimsical or provocative.
 - E. Any name which may be associated with a joke, anecdote, or anagram, or could detract from the efficient and businesslike presentation of the information involved.
2. Names may be selected from a class of objects such as colors, animals, plants, the phonetic alphabet, or common neutral names such as Brown, Doe, Jones, Smith, provided good judgment is used to avoid objects or combinations of objects which might suggest results contrary to the intent of this instruction.
3. Business or corporate names should be similarly selected or constructed and should avoid any possibility of suggesting to the reader any actual business organization.

4. City names should similarly be neutral such as “Anytown,” or use the name of a major city having no unfavorable connotations in related to the materials with which they are being associated. The use of the obscure or unusual place names is to be avoided.

If use of fictional examples is not consistent with the purpose for which the information is to be disseminated, examples may be available in court cases which are public records. When using such examples, care must be exercised to include only such information as actually appeared in the public record.

If neither fictional examples nor examples from public records are appropriate, consideration should be given to the use of composite examples, in which components are drawn from three or more cases, rendering the result as statistical data precluding identification of any taxpayer.

Public Availability of Internal Documentation

Information or documentation disclosing dollar tolerance levels for various activities must not be provided to other State employees not directly involved in field audit activities, return review activities, or collection activities. Requests from other State employees should be directed to your supervisor.

Release of policy, procedural, or other documents can only be made by the Treasury Disclosure Officer.

Disclosure of STAR or MARCS Records

Taxpayers may not be sent a copy of the accounting detail from the STAR or MARC’s system. These records contain case history, suspension status, comments, or sensitive collection case information which will not be disclosed. Original letters will have to be prepared or requested on-line, outlining the payment and adjustment history by assessment.

Disclosure of Lien Information

The amount due shown on a recorded tax lien may change due to updated penalty and interest, corrections to the tax due, and payments. The current amount due often varies significantly from tax lien **amount**. Absent written taxpayer authorization, third parties cannot be advised of the current balance due. Third parties who wish to know whether liens have been filed must be referred to the county Register of Deeds office and/or Secretary of State, Uniform Commercial Code Section, as appropriate. However, the taxpayer can be verbally provided with the current amount due on the assessments included on liens, and subsequently verify this amount for the third person. Alternately, a letter stating the balance due can be sent by mail to the taxpayer’s name and address of record, and the taxpayer can give the letter to the third person if they so choose.

Court-Ordered Disclosures

Disclosure of tax returns and tax return information to someone other than the taxpayer is statutorily restricted to protect taxpayer confidentiality. Treasury’s Disclosure Officer makes the initial determination regarding disclosure.

Further, tax return or tax return information may be open to inspection by or disclosure to a third party pursuant to a judicial order issued by a court, consistent with the requirements of 1941 P.A. 122, section MCL 205.28(1)(f); MSA 7.657(28)(1)(f), as follows:

1. An agency charged with the duty of enforcing or investigating support obligations pursuant to an order of the court in a domestic relations matter as described in MCL 552.531; MSA 25.176(31); or
2. An agency of the federal, state or local government charged with the responsibility of administering or enforcing criminal law for purposes of investigating or prosecuting criminal matters; or
3. Pursuant to a judicial order, if the taxpayer's liability for a tax administered under the Revenue Act is to be adjudicated by the court that issues that order, or
4. Pursuant to a judicial order or subpoena issued by a federal grand jury or a grand jury convened under laws of the State of Michigan. A subpoena signed by a magistrate is preferable but not mandatory.

All subpoenas requiring an employee's appearance in court should be referred to the Treasury Disclosure Officer.

Subpoenas for tax returns or tax return information are to be directed to the Treasury Disclosure Officer.

Auditor General Requests

Returns, return information and tax administration information may be disclosed as detailed below to employees of the Auditor General for purpose of making an audit of Treasury. In audits of other state agencies or departments, employees of the Auditor General may request returns or return information by making a written request to the Disclosure Officer.

The Auditor General also conducts reviews of nontax activities of Treasury such as procurement, payroll budget, and fiscal operations. Since these reviews do not entail a review of Revenue's tax activities in connection with the administration of the State tax laws, the Auditor General will normally require disclosure of returns and return information. The Auditor General may, however, as part of those nontax reviews, have access to nontax information

No disclosure of tax, nontax, or administrative information will be made unless it is verified that the request is part of an authorized review of Treasury. Information will not be disclosed to the Auditor General during an audit of Revenue if the Treasury Disclosure Officer or their delegate determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

Grand jury information may not be disclosed to the Auditor General. Questions concerning grand jury information should be referred to the Treasury Disclosure Officer.

Problems regarding the scope of a review are to be resolved by the Director of the Office of Internal Audit.

Any information that is available to the Auditor General during a nontax review, or is available to the general public, is available to the Auditor General during a tax review.

Tax reviews by the Auditor General may include reviews of tax returns and return information. Auditor General's request for returns and return information are to be made in writing and sent to the Treasury Disclosure Officer. Copies of such records can be provided by the Auditor General. Reviews of returns and return information may be performed on the premises of the related division or at the Auditor General's work site.

Reporting Nontax Crimes

It is possible that staff will obtain information indicating a nontax criminal violation such as robbery, murder, assault, fraud, narcotics violations, bribery of public officials, etc. Consult with the supervisor to determine whether the information should be reported to local police authorities. It is important that an *Incident Report* (Form 4000) is completed and submitted to the Treasury Office of Privacy and Security for investigation.

Forwarding Letters for Humane Reasons

Letters for humane reasons should be forwarded to the Treasury Disclosure Officer. The addresses of taxpayers are return information. In cases where there are humane reasons involved, Treasury may forward a letter for a requester. Treasury cannot however, provide the requester with information concerning the results of its efforts.

Examples of humane purposes are:

- A person seeking to find a missing person to convey a message of urgent or compelling nature, such as serious illness, imminent death or death of a close relative, or a person seeking a missing relative.
- Health and well-being of a number of persons involved such as person being sought for medical study to detect and treat medical defects.
- A person seeking to notify an individual who cannot otherwise be located that they are entitled to certain assets. Treasury will forward a letter from an attorney or estate administrator or other person who directly controls the assets. If there is a question of who actually controls the assets, Treasury will require the requester to furnish proper documentation of their control. For example, an attorney who is designed by a court to represent a class of individuals entitled to awards under a court settlement must provide a copy of the court order appointing they counsel for the class. No documentation is necessary when a letter to be forwarded contains instructions to the intended recipient to contact the controller of the assets directly.

The situation where a family member is attempting to trace their family tree does not qualify as a humane purpose. Also, it is Treasury's policy not to forward letters which serve to seek reparation for obligation due the requester.

Information Which Has Become Public Notice

Confidential information which has become public as a result of actions (judicial or otherwise) taken by, or on behalf of, Treasury are not to be disclosed since the information was obtained through tax administration. Interested third persons may only be referred to related public records. It is the responsibility of the third person to gather the desired information from public record.

Information made public by a taxpayer or third party, which is identical to returns or return information in the possession of Treasury does not affect the confidentiality of such information. Thus, Treasury cannot use return information to confirm information made public by any other party.

Protecting Identities of Treasury Employees

Name, signatures, initials, or other identifying details (but not title or office) of Treasury employees may be deleted from documents released when considered necessary in order to avoid unwarranted invasion of privacy, threat of harassment, or abuse of employees and their families.

Employees' residence address and home telephone number will not be disclosed for security reasons.

Identities of senior officials, such as the Deputy Treasurer, Chief Deputy Treasurer and Directors should not be deleted. Identities which should be known to the requester, such as enforcement officers required to identify themselves to the subject of an investigation, should not be deleted.

These instructions do not apply to innocuous lists of employees, such as telephone directories.

Disclosures to Contractors

Where it is necessary the State contractors be given access to returns, return information or tax administration information, the Administrator of the related division must obtain prior approval. All contractor employees or subcontractor employees must first take the Web-based Safeguard Awareness training and sign a confidentiality agreement with Treasury. Any improper disclosure by these persons may result in cancellation of the contract and possible felony charges.

UNAUTHORIZED DISCLOSURES AND SUMMARY

If any employee knowingly, or by reason of negligence, discloses any return or return information not authorized by the Revenue Act, the taxpayer whose information was released may sue the State of Michigan for damages. For example, if employee discusses the details of a tax case with a spouse or a friend, the employee is making an unauthorized disclosure for which the taxpayer may sue the State and/or employee. The State may take disciplinary action against any employee who makes an unauthorized disclosure. Any employee found criminally liable faces a maximum penalty of five years in prison, a \$5,000 fine, and automatic dismissal from employment.

Returns and return information are confidential and may not be disclosed unless authorized by the Revenue Act. As a Treasury employee, pertinent questions may be asked which will enable the closing of an investigation. With this in mind, be careful not to volunteer any information in return for the information received.

End