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Tax Regs in Plain English

# IRS Restructuring and Reform Act of 1998

## 3708 - Provision of Confidential Information to Congress by Whistleblowers

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### Section 3708

**A. Provision(s) covered:** RRA § 3708, Provision of Confidential Information to Congress by Whistleblowers

**B. Background:** Confidential tax information generally may not be disclosed, except as specifically authorized under section 6103 or another provision of the Internal Revenue Code. This general rule precludes disclosure of tax information to Congress, except as specifically permitted under the terms of IRC § 6103(f). Prior to enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, section 6103(f) permitted tax information to be disclosed to the Senate Committee on Finance, the House Committee on Ways and Means, or the Joint Committee on Taxation pursuant to a written request from the respective Chairman of such committees. To the extent the requested information would identify, directly or indirectly, a particular taxpayer, the information may be furnished to the specified committee only while sitting in closed executive session unless the taxpayer consents, in writing, to disclosure to the Committee sitting in open session.

**C. Change(s):** RRA § 3708 amends IRC § 6103(f) by adding a new paragraph designated as section 6103(f)(5) which allows any person (i.e., a whistleblower) who is or was authorized to receive confidential tax information to disclose confidential tax

information directly to the Senate Committee on Finance, the House Committee on Ways and Means, or the Joint Committee on Taxation, or to any individual authorized by one of those committees to receive or inspect confidential tax information, if the whistleblower believes such confidential tax information may relate to evidence of possible misconduct, maladministration, or taxpayer abuse.

The legislative history of this provision indicates that disclosure to one of these committees could be made either to the Chairman or to the full committee sitting in closed executive session, but would not be permitted to be made to an individual member of Congress unless that member is explicitly authorized as an agent.

**D. Impact:** While the legislative history of this provision states that no inference is intended that whistleblower disclosures explicitly authorized under this provision are not permitted under current law, the significance of this change is that whistleblower disclosures to Congress by the intended audience ( i.e., Internal Revenue Service and Chief Counsel employees) now are authorized, expressly, by the Internal Revenue Code.

### **E. Necessary Actions**

1. The Office of the Assistant Chief Counsel (Disclosure Litigation) will assist the Internal Revenue Service's Office of Government Liaison and Disclosure, CP:EX:GLD, in developing IRM or other appropriate explanation of, and guidance with respect to, this provision, as requested. In addition, with respect to the development of procedures that whistleblowers would follow in making disclosures authorized under new section 6103(f)(5), it may be necessary for the Office of the Assistant Chief Counsel (Disclosure Litigation) in conjunction with the Internal Revenue Service's Office of Government Liaison and Disclosure, CP:EX:GLD, to coordinate with the Offices of the Chairmen of the Senate Committee on Finance, the House Committee on Ways and Means, and the Joint Committee on Taxation, and with staff of those committees, particularly with respect to establishing a list of named individuals authorized to receive whistleblower contacts under section 6103(f)(5).
2. Internal Revenue Service and Chief Counsel employees can be advised that, as of the date of enactment of RRA § 3708, they may disclose confidential tax information to the Senate Committee on Finance, the House Committee on Ways and Means, or the Joint Committee on Taxation, if they believe such information may relate to evidence of possible misconduct, maladministration, or taxpayer abuse. They can also be advised that any such disclosures may only be made directly to the Chairman of any such committee or to such committees sitting in closed executive session until such time as a list of named individuals authorized to receive whistleblower contacts is made available.

**F. Other Special Comments:** None

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