

a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(i) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(f)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

APPENDIX B TO SUBPART C OF PART 1— INTERNAL REVENUE SERVICE

1. *Purpose.* The purpose of this section is to set forth the procedures that have been established by the Internal Revenue Service for individuals to exercise their rights under the Privacy Act of 1974 (88 Stat. 1896) with respect to systems of records maintained by the Internal Revenue Service, including the Office of the Chief Counsel. The procedures contained in this section are to be promulgated under the authority of 5 U.S.C. 552a(f). The procedures contained in this section relate to the following:

(a) The procedures whereby an individual can be notified in response to a request if a system of records named by the individual contains a record pertaining to such individual (5 U.S.C. 552a(f)(1)).

(b) The procedures governing reasonable times, places, and requirements for identifying an individual who requests a record of information pertaining to such individual before the Internal Revenue Service will make the record or information available to the individual (5 U.S.C. 552a(f)(2)).

(c) The procedures for the disclosure to an individual upon a request of a record of information pertaining to such individual, including special procedures for the disclosure

to an individual of medical records, including psychological records. (5 U.S.C. 552a(f)(3)).

(d) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Internal Revenue Service of an initial adverse agency determination, and for whatever additional means may be necessary for individuals to be able to exercise fully their right under 5 U.S.C. 552a (5 U.S.C. 552a(f)(4)).

Any individual seeking to determine whether a system of records maintained by any office of the Internal Revenue Service contains a record or information pertaining to such individual, or seeking access to, or amendment of, such a record, must comply fully with the applicable procedure contained in paragraph (3) or (4) of this section before the Internal Revenue Service will act on the request. Neither the notification and access (or accounting of disclosures) procedures under paragraph (3) of this section nor the amendment procedures under paragraph (4) of this section are applicable to (i) systems of records exempted pursuant to 5 U.S.C. 552a(j) and (k), (ii) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a(d)(5)), or (iii) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

2. *Access to and amendment of tax records.* The provisions of the Privacy Act of 1974 may not be used by an individual to amend or correct any tax record. The determination of liability for taxes imposed by the Internal Revenue Service Code, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes are governed by the provisions of the Internal Revenue Service Code and by the procedural rules of the Internal Revenue Service. These provisions set forth the established procedures governing the determination of liability for tax, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes. In addition, these provisions set forth the procedures (including procedures for judicial review) for resolving disputes between taxpayers and the Internal Revenue Service involving the amount of tax owed, or the payment or collection of such tax. These procedures are the exclusive means available to an individual to contest the amount of any liability for tax or the payment or collection thereof. See, for example, 26 CFR 601.103 for summary of general tax procedures. Individuals are advised that Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting

the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act. Where, on the other hand, an individual desires information or records not in connection with an investigation, audit, or collection activity, the individual may follow these procedures.

3. *Procedures for access to records*—(a) *In general.* This paragraph sets forth the procedure whereby an individual can be notified in response to a request if a system of records named by the individual which is maintained by the Internal Revenue Service contains a record pertaining to such individual. In addition, this paragraph sets forth the procedure for the disclosure to an individual upon a request of a record or information pertaining to such individual, including the procedures for verifying the identity of the individual before the Internal Revenue Service will make a record available, and the procedure for requesting an accounting of disclosures of such records. An individual seeking to determine whether a particular system of records contains a record or records pertaining to such individual and seeking access to such records (or seeking an accounting of disclosures of such records) shall make a request for notification and access (or a request for an accounting of disclosures) in accordance with the rules provided in paragraph 3(b) of this section.

(b) *Form of request for notification and access or request for an accounting of disclosures.* (i) A request for notification and access (or request for an accounting of disclosures) shall be made in writing and shall be signed by the person making the request.

(ii) Such request shall be clearly marked, "Request for notification and access," or "Request for accounting of disclosures."

(iii) Such a request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the particular system of records (as set forth in the Notice of Systems) for which the individual is seeking notification and access (or an accounting of disclosures), and the title and business address of the official designated in the access section for the particular system (as set forth in the Notice of Systems). In the case of two or more systems of records which are under the control

of the same designated official at the same systems location, a single request may be made for such systems. In the case of two or more systems of records which are not in the control of the same designated official at the same systems location, a separate request must be made for each such system.

(vi) If an individual wishes to limit a request for notification and access to a particular record or records, the request should identify the particular record. In the absence of a statement to the contrary, a request for notification and access for a particular system of records shall be considered to be limited to records which are currently maintained by the designated official at the systems location specified in the request.

(vii) If such request is seeking notification and access to material maintained in a system of records which is exempt from disclosure and access under 5 U.S.C. 552a (k)(2), the individual making the request must establish that such individual has been denied a right, privilege, or benefit that such individual would otherwise be entitled to under Federal law as a result of the maintenance of such material.

(viii) Such request shall state whether the individual wishes to inspect the record in person, or desires to have a copy made and furnished without first inspecting it. If the individual desires to have a copy made, the request must include an agreement to pay the fee for duplication ultimately determined to be due. If the individual does not wish to inspect a record, but merely wishes to be notified whether a particular system or records contains a record pertaining to such individual, the request should so state.

(c) *Time and place for making a request.* A request for notification and access to records under the Privacy Act (or a request for accounting of disclosures) shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records for which the individual is seeking notification and access (or an accounting of disclosures). The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(d) Sample request for notification and access to records. The following are sample requests for notification and access to records which will satisfy the requirements of this paragraph:

REQUEST FOR NOTIFICATION AND ACCESS TO
RECORDS BY MAIL

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the Privacy Act of 1974 that the following system of records be examined and that I be furnished with a copy of any record

(or a specified record) contained therein pertaining to me. I agree that I will pay the fees ultimately determined to be due for duplication of such record. I have enclosed the necessary information.

System Name:

System Location:

Designated Official:

John Doe

REQUEST FOR NOTIFICATION AND ACCESS TO RECORDS IN PERSON

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the provisions of the Privacy Act of 1974, that the following system of records be examined and that I be granted access in person, to inspect any record (or a specified record) contained therein pertaining to me. I have enclosed the necessary identification.

System Name:

System Location:

Designated Official:

John Doe

(e) *Processing a request for notification and access to records or a request for an accounting of disclosures.* (1) If a request for notification and access (or request for an accounting of disclosures) omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for notification and access (or a request for an accounting of disclosures), to a particular system of records by the designated official for such system, a determination will be made as to whether the particular system of records is exempt from the notification and access provisions of the Privacy Act, and if such system is not exempt, whether it does or does not contain a record pertaining to the individual making the request. If a determination cannot be made within 30 days, the individual will be notified of the delay, the reasons therefor, and the approximate time required to make a determination. If it is determined by the designated official that the particular system of records is exempt from the notification and access provisions of the Privacy Act, the individual making the request will be notified of the provisions of the Privacy Act under which the exemption is claimed. On the other hand, if it is determined by the designated official that the particular system of records is not exempted from the notification and access provisions of the Privacy Act and that such system con-

tains a record pertaining to the individual making the request, the individual will be notified of the time and place where inspection may be made. If an individual has not requested that access be granted to inspect the record in person, but merely requests that a copy of the record be furnished, or if it is determined by the designated official that the granting of access to inspect a record in person is not feasible in a particular case, then the designated official will furnish a copy of the record with the notification, or if a copy cannot be furnished at such time, a statement indicating the approximate time such copy will be furnished. If the request is for an accounting of disclosures from a system of records which is not exempt from the accounting of disclosure provisions of the Privacy Act, the individual will be furnished with an accounting of such disclosures.

(f) *Granting of access.* Normally, an individual will be granted access to inspect a record in person within 30 days (excluding Saturdays, Sundays, and legal public holidays) after the receipt for a request for notification and access by the designated official. If access cannot be granted within 30 days, the notification will state the reasons for the delay and the approximate time such access will be granted. An individual wishing to inspect a record may be accompanied by another person of his choosing. Both the individual seeking access and the individual accompanying him may be required to sign a form supplied by the IRS indicating that the Service is authorized to disclose or discuss the contents of the record in the presence of both individuals. See 26 CFR 601.502 for requirements to be met by taxpayer's representatives in order to discuss the contents of any tax records.

(g) *Medical records.* When access is requested to medical records (including psychological records), the designated official may determine that release of such records will be made only to a physician designated by the individual to have access to such records.

(h) *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the IRS on any such request:

(1) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

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amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(1)(3) for requesting or obtaining access to records under false pretenses.

(iv) Notwithstanding subdivisions (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

(1) *Fees.* The fee for costs required of the IRS in copying records pursuant to this paragraph is \$0.15 per page. However, no fee will be charged if the aggregate costs required of the IRS in copying records is less than \$3.00. If an individual who has requested access to inspect a record in person is denied such access by the designated official because it would not be feasible in a particular case, copies of such record will be furnished to the individual without payment of the fees otherwise required under this subparagraph. If the IRS estimates that the total fees for costs incurred in complying with a request for copies of records will amount to \$50 or more, the individual making the request may be required to enter into a contract for the payment of the actual fees with respect to the request before the Service will furnish the copies requested. Payment of fees for copies of records should be made by check or money order payable to the Internal Revenue Service.

4. *Procedures for amendment of records.* (a) In general. This paragraph sets forth the procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to such individual, for making a determination on the request, for making an appeal within the IRS of an initial adverse determination, and for judicial review of a final determination.

(b) *Amendment of record.* Under 5 U.S.C. 552a(d)(2), an individual who has been granted access to a record pertaining to such individual may, after inspecting the record, request that the record be amended to make any correction of any portion thereof which

the individual believes is not accurate, relevant, timely, or complete. An individual may seek to amend a record in accordance with the rules provided in paragraph (d)(3) of this section. See paragraph (b) of this section for prohibition against amendment of tax records.

(c) *Form of request for amendment of record.*

(i) A request for amendment of a record shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for amendment of record."

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the official designated in the access section for such system (as set forth in the Notice of Systems).

(vi) Such request shall specify the particular record in the system which the individual is seeking to amend.

(vii) Such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(d) *Time and place for making request.* A request to amend a record under the Privacy Act shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records. The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(e) *Processing a request for amendment of a record.* (i) Within 10 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, the individual will be sent a written acknowledgment that will state that the request has been received, that action is being taken thereon, and that the individual will be notified within 30 days (not including Saturdays,

Sundays, and legal public holidays) after the receipt of the request whether the requested amendments will or will not be made. If a request for amendment of a record omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised on the additional information which must be submitted before the request can be processed.

(i) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, a determination will be made as to whether to grant the request in whole or part. The individual will then be notified in writing of the determination. If a determination cannot be made within 30 days, the individual will be notified in writing within such time of the reasons for the delay and the approximate time required to make a determination. If it is determined by the designated official that the request will be granted, the requested changes will be made in the record and the individual will be notified of the changes. In addition, to the extent an accounting was maintained, all prior recipients of such record will be notified of the changes. Upon request, an individual will be furnished with a copy of the record, as amended, subject to the payment of the appropriate fees. On the other hand, if it is determined by the designated official that the request, or any portion thereof, will not be granted, the individual will be notified in writing of the adverse determination. The notification of an adverse determination will set forth the reasons for refusal to amend the record. In addition, the notification will contain a statement informing the individual of such individual's right to request an independent review of the adverse determination by a reviewing officer in the national office of the IRS and the procedures for requesting such a review.

(f) *Administrative review of adverse determination.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with the refusal of the agency to amend a record may, within 35 days of being notified of the adverse determination, request an independent review of such refusal by a reviewing officer in the national office of the IRS. The reviewing officer for the IRS is the Commission of Internal Revenue, the Deputy Commissioner, or an Assistant Commissioner. In the case of an adverse determination relating to a system of records maintained by the Office of General Counsel for the IRS, the reviewing officer is the Chief Counsel or his delegate. An individual seeking a review of an adverse determination shall make a request for review in accordance with the rules provided in paragraph (d)(7) of this section.

(g) *Form of request for review.* (i) A request for review of an adverse determination shall

be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for review of adverse determination".

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g. husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the particular record which the individual is seeking to amend, the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the designated official for such system (as set forth in the Notice of Systems).

(vi) Such request shall include the date of the initial request for amendment of the record, and the date of the letter notifying the individual of the initial adverse determination with respect to such request.

(vii) such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(h) *Time and place for making the request.* A request for review of an adverse determination under the Privacy Act shall be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. A request for review of an adverse determination will be promptly referred by the Director, Office of Disclosure to the appropriate reviewing officer for his review and final determination.

(i) *Processing a request for review of adverse determination.* Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for review of an adverse determination by the appropriate reviewing officer, the reviewing officer will review the initial adverse determination, make a final determination whether to grant the request to amend the record in whole or in part, and notify the individual in writing of the final determination. If a final determination cannot be made within 30 days, the Commissioner of Internal Revenue

may extend such 30-day period. The individual will be notified in writing within the 30 day period of the cause for the delay and the approximate time required to make a final determination. If it is determined by the reviewing officer that the request to amend the record will be granted, the reviewing officer will cause the requested changes to be made and the individual will be so notified. Upon request, an individual will be furnished with a copy of the record as amended subject to the payment of appropriate fees. On the other hand, if it is determined by the reviewing officer that the request to amend the record, or any portion thereof, will not be granted, the individual will be notified in writing of the final adverse determination. The notification of a final adverse determination will set forth the reasons for the refusal of the reviewing officer to amend the record. The notification shall include a statement informing the individual of the right to submit a concise statement for insertion in the record setting forth the reasons for the disagreement with the refusal of the reviewing officer to amend the record. In addition, the notification will contain a statement informing the individual of the right to seek judicial review by a United States district court of a final adverse determination.

(j) *Statement of disagreement.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with a final adverse determination not to amend a record subject to amendment under the Privacy Act may submit a concise statement for insertion in the record setting forth the reasons for disagreement with the refusal of the reviewing officer to amend the record. A statement of disagreement should be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The Director, Office of Disclosure will forward the statement of disagreement to the appropriate designated official who will cause the statement to be inserted in the individual's record. Any such statement will be available to anyone to whom the record is subsequently disclosed and the prior recipients of the record will be provided with a copy of the statement of disagreement, to the extent an accounting of disclosures was maintained.

(k) *Judicial review.* If, after a review and final determination on a request to amend a record by the appropriate reviewing officer, the individual is notified that the request will not be granted, or if, after the expiration of 30 days (not including Sundays, Saturdays, and legal public holidays) from the receipt of such request by the Director, Disclosure Operations Division, action is not taken thereon in accordance with the requirements of paragraph (d)(9) of this section, an individual may commence an action

within the time prescribed by law in a U.S. District Court pursuant to 5 U.S.C. 552a (g)(1). The statute authorizes an action only against the agency. With respect to records maintained by the IRS, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the IRS must be directed to the Commissioner of Internal Revenue, Attention: CC:GLS, 1111 Constitution Avenue, NW, Washington, DC 20224. The district court will determine the matter *de novo*.

5. *Records transferred to Federal Records Centers.* Records transferred to the Administrator of General Services for storage in a Federal Records Center are not used by the Internal Revenue Service in making any determination about any individual while stored at such location and therefore are not subject to the provisions of 5 U.S.C. 552a (e)(5) during such time.

APPENDIX C TO SUBPART C OF PART 1— UNITED STATES CUSTOMS SERVICE

1. *In general.* This appendix applies to the United States Customs Service. It sets forth specific notification and access procedures with respect to particular systems of records. It identifies the officer designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* (a) For records which are maintained at the United States Customs Service Headquarters, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the

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