

## IRS CONSIDERS GIVING DATA TO OTHER AGENCIES

By Stephen J. Glain, Boston Globe Staff  
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WASHINGTON -- The Internal Revenue Service is exploring ways to share names, addresses, birth dates, employee records, and other taxpayer information with law-enforcement agencies, particularly the Immigration and Naturalization Service, according to legislative aides and senior tax attorneys.

Aides said any such move, though taken in the name of national security, could violate the spirit if not the letter of US nondisclosure laws. These privacy rules were first established in the mid-1970s as part of an overhaul of the tax code after the Nixon White House used IRS records to intimidate its enemies.

While the decision to reexamine this part of the tax code, known as section 6103, comes from IRS Commissioner Mark W. Everson, it is unclear whether the idea originated with Everson or whether it is part of some larger security initiative. The proposal has, however, raised privacy and legal concerns among congressional staffers as well as former IRS officials. "There is a difficult balance between the requirements of confidentiality and questions of national security, and we've been reviewing these issues with the IRS," said Christin Tinsworth, communications director of the House Ways and Means committee. In recent weeks IRS officials have approached the committee for discussions on how certain confidentiality laws could be reinterpreted to expedite the sharing of taxpayer records with the Justice Department, the FBI, INS, and the Securities and Exchange Commission. In particular, they say, the IRS wants to pass on information compiled under its individual taxpayer identification number program, which requires foreigners with earned income in the United States and awaiting citizenship to comply with US tax laws. Foreign workers in the US use the identification numbers to obtain driver's licenses and open bank accounts, a potentially lucrative trove of information for internal domestic security agencies. Commissioner Everson would like to share tax information with other agencies without having to go through rigorous disclosure procedures, said legislative aides and tax attorneys. Currently, the IRS must obtain a court order before it can share information with another governmental agency. Some congressional aides said Everson, a former INS deputy commissioner and Justice Department official in the Reagan administration, believes post-Sept. 11 antiterrorism laws give him the authority to make the changes without having to rewrite laws. "This is a good subject for an oversight hearing on the Ways and Means Committee," said a committee staff member on the Democratic side. "It would raise eyebrows if the IRS thought they already had administrative authority to go forward on something like this."

Christopher Bergin, executive director of Tax Analysts, an Arlington, Va., nonprofit publisher of several journals and reports on tax law, said the IRS needs to make clear whatever plans it may have for modifying the terms of section 6103. "There are indications Everson wants to reinterpret laws that govern the disclosure of taxpayer

information," he said. "Commissioner Everson should tell us what his intentions are." Loosening the strictures of section 6103 could discourage taxpayers from filing honest tax returns, said Sheldon Cohen, who served as IRS commissioner under President Johnson and as vice chairman revised the section in the 1970s.

"Other agencies look at the IRS as a honey pot" of information, said Cohen, now a partner at the Washington law firm of Morgan, Lewis, and Bockius. "But the one thing the Justice Department doesn't think about is that people file tax returns only if they know they won't be used for anything else. People fear the IRS more than local gendarmes. If the IRS becomes an adjunct to local gendarmes, what does that do to the tax code?"

The IRS did not respond to requests for comment.

The Justice Department, which controls the FBI, has had a long and sometimes uneasy relationship with the IRS. It was FBI access to Al Capone's fraudulent tax returns that led to the successful prosecution of the Prohibition-era mobster and it was the abuse of IRS records during the Nixon administration that led regulators to tighten section 6103.

In the aftermath of the Sept. 11 terrorist attacks, Cohen said, pressure to share IRS documents with other agencies has revived itself.

"Everyone thinks you should loosen it up," Cohen said. Everyone wants to eradicate terrorism, he said, "but routine law enforcement should be possible without sharing people's tax returns."