



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 17, 2019

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Wyden:

I write in further response to your May 14 letter inquiring about the Department of the Treasury's response to the Chairman of the House Ways and Means Committee for the confidential tax returns (and other return information) of President Trump and related businesses. As a follow-up to our response letter of June 27, we are pleased to clarify several points at your staff's request.

First, you inquired about the history of the tax-writing committees' requests for information pursuant to 26 U.S.C. § 6103(f). As noted in your letter, the Senate Finance Committee and House Ways and Means Committee have made section 6103(f) requests for the returns or return information of specific taxpayers in connection with committee inquiries concerning matters of legislative interest in the past, including the requests mentioned in your letter. The tax-writing committees' archives are likely the most complete record of such requests. Attached is an updated table showing all section 6103(f) requests (including requests for business and organization returns or return information) from the tax-writing committees since 2005 for which the Internal Revenue Service (IRS) has a record. We have no reason to doubt your reference to additional section 6103(f) requests dating after 2005 and understand that the tax-writing committees requested and received information under section 6103(f) prior to 2005.

Second, you posed several inquiries as to how the Department has handled section 6103(f) requests in the past. You inquired whether the Treasury Secretary has previously responded to a section 6103(f) request. We are not aware of any previous request to which a Treasury Secretary has directly responded, but we are also not aware of any previous section 6103(f) request that presented serious constitutional questions that extend well beyond the internal revenue laws.

You also asked whether the Department has previously consulted the Office of Legal Counsel (OLC) concerning the legality of a section 6103(f) request. We are not aware of any specific previous request about which Treasury or IRS has consulted OLC, but we cannot be certain. As our June 27 letter notes, OLC provided a published legal opinion concerning the scope of section 6103(f) in 1977; we do not know whether that opinion was sought in connection with a specific

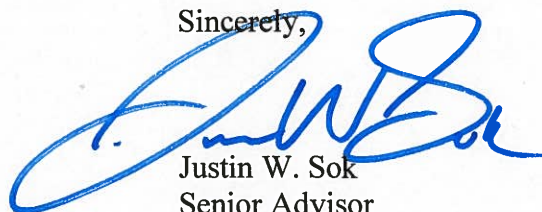
request at the time.¹ We also note that it is not uncommon for federal agencies to consult OLC on an informal basis.

You also inquired whether the Department has previously reviewed a section 6103(f) request to determine whether it served a legitimate legislative purpose. We are not aware of any previous section 6103(f) request for which the Department has documented its legal analysis concerning that constitutional prerequisite. This is unsurprising. As explained in our previous letter, there is no need for close review of most requests under section 6103(f) because the purpose of the request is usually self-evident and legitimate. We are not aware of any previous section 6103(f) request for which there was a voluminous public record indicating that the committee's purpose was to release the requested confidential tax information to the public—a unique circumstance that warranted a careful legal review of Chairman Neal's request.

Third, in addition to the documents that we previously provided, you seek internal analysis and communications concerning the legal problems raised by Chairman Neal's request, including an exchange of letters between OLC and the Department. We respectfully decline to provide those materials at this time because they are predecisional and deliberative, and we do not believe they are needed in order to evaluate the Department's decision on this matter. As noted in our June 27 letter, the Secretary's three public letters to Chairman Neal explain at length the basis for the Department's concern about the purpose of the request, the constitutional issues that warranted review by OLC, and the rationale for the Department's final decision based on OLC's legal advice. In addition, OLC provided a thorough opinion memorializing the reasons for its advice, and OLC has published its opinion, thus making its legal reasoning available to all Members of Congress and the public.² We believe this public record provides ample basis for understanding and evaluating the Department's response to Chairman Neal's request. If you have specific questions about the Department's decision, however, we would be pleased to engage further with you and your staff on those questions.

We hope this additional response to your May 14 letter is helpful.

Sincerely,



Justin W. Sok
Senior Advisor
Office of Legislative Affairs

Enclosures

cc: The Honorable Charles E. Grassley, Chairman

¹ See *Congressional Access to Tax Returns*—26 U.S.C. § 6103(f), 1 Op. O.L.C. 85 (1977).

² *Congressional Committee's Request for the President's Tax Returns Under 26 U.S.C. § 6103(f)*, Slip Op. O.L.C., at 1 (2019), available at <https://www.justice.gov/olc/file/1173756/download>.