

plan. The preceding sentence shall not apply to any request—

- (i) made after the later of—
 - (I) the fifth plan year the pension benefit plan is in existence, or
 - (II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or
- (ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(C) Definitions and special rules

For purposes of subparagraph (B)—

(i) Pension benefit plan

The term “pension benefit plan” means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(ii) Eligible employer

The term “eligible employer” means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

(iii) Determination of average fees charged

For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

(3) Average fee requirement

The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion ...	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

(Added Pub. L. 108-89, title II, §202(a), Oct. 1, 2003, 117 Stat. 1132; amended Pub. L. 108-357, title VIII, §891(a), Oct. 22, 2004, 118 Stat. 1644; Pub. L. 110-28, title VIII, §8244, May 25, 2007, 121 Stat. 200.)

AMENDMENTS

2007—Subsec. (c). Pub. L. 110-28 struck out heading and text of subsec. (c). Text read as follows: “No fee shall be imposed under this section with respect to requests made after September 30, 2014.”

2004—Subsec. (c). Pub. L. 108-357 substituted “September 30, 2014” for “December 31, 2004”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §891(b), Oct. 22, 2004, 118 Stat. 1644, provided that: “The amendment made by this section [amending this section] shall apply to requests after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-89, title II, §202(d), Oct. 1, 2003, 117 Stat. 1133, provided that: “The amendments made by this

section [enacting this section, enacting provisions set out as a note under this section, and repealing provisions set out as notes under section 7801 of this title] shall apply to requests made after the date of the enactment of this Act [Oct. 1, 2003].”

LIMITATIONS

Pub. L. 108-89, title II, §202(c), Oct. 1, 2003, 117 Stat. 1133, provided that: “Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.”

CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter	Sec. ¹
A. Examination and inspection	7601
B. General powers and duties	7621
[C. Repealed.]	
D. Possessions	7651

AMENDMENTS

Pub. L. 94-455, title XIX, §1906(b)(13), Oct. 4, 1976, 90 Stat. 1834, struck out subchapter C relating to supervision of operations of certain manufacturers.

Subchapter A—Examination and Inspection

Sec.	
7601.	Canvass of districts for taxable persons and objects.
7602.	Examination of books and witnesses.
7603.	Service of summons.
7604.	Enforcement of summons.
7605.	Time and place of examination.
7606.	Entry of premises for examination of taxable objects.
[7607.	Repealed.]
7608.	Authority of internal revenue enforcement officers.
7609.	Special procedures for third-party summonses.
7610.	Fees and costs for witnesses.
7611.	Restrictions on church tax inquiries and examinations.
7612.	Special procedures for summonses for computer software.
7613.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3413(d), July 22, 1998, 112 Stat. 754, added items 7612 and 7613 and struck out former item 7612 “Cross references”.

1984—Pub. L. 98-573, title II, §213(b)(2), Oct. 30, 1984, 98 Stat. 2988, struck out item 7607 “Additional authority for Bureau of Customs”.

Pub. L. 98-369, div. A, title X, §1033(c)(2), July 18, 1984, 98 Stat. 1039, added item 7611 and redesignated former item 7611 as 7612.

1976—Pub. L. 94-455, title XII, §1205(b), Oct. 4, 1976, 90 Stat. 1702, substituted “Special procedures for third-party summonses” for “Cross references” in item 7609 and added items 7610 and 7611.

1970—Pub. L. 91-513, title III, §1102(g)(2), Oct. 27, 1970, 84 Stat. 1293, struck out “Bureau of Narcotics and” before “Bureau of Customs” in item 7607.

1958—Pub. L. 85-859, title II, §204(16), Sept. 2, 1958, 72 Stat. 1430, added item 7608 and redesignated former item 7608 as 7609.

1956—Act July 18, 1956, ch. 629, §104(b), 70 Stat. 570, added item 7607 and redesignated former item 7607 as 7608.

¹ Section numbers editorially supplied.

§ 7601. Canvass of districts for taxable persons and objects

(a) General rule

The Secretary shall, to the extent he deems it practicable, cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects with respect to which any tax is imposed.

(b) Penalties

For penalties applicable to forcible obstruction or hindrance of Treasury officers or employees in the performance of their duties, see section 7212.

(Aug. 16, 1954, ch. 736, 68A Stat. 901; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7602. Examination of books and witnesses

(a) Authority to summon, etc.

For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(b) Purpose may include inquiry into offense

The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

(c) Notice of contact of third parties

(1) General notice

An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable

notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.

(2) Notice of specific contacts

The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

(3) Exceptions

This subsection shall not apply—

(A) to any contact which the taxpayer has authorized;

(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or

(C) with respect to any pending criminal investigation.

(d) No administrative summons when there is Justice Department referral

(1) Limitation of authority

No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

(2) Justice Department referral in effect

For purposes of this subsection—

(A) In general

A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

(B) Termination

A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation,

(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not