

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



May 29, 2015

CSS LETTER: 15-03

ALL IV-D DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL BOARDS OF SUPERVISORS

SUBJECT: USE OF FEDERAL TAX INFORMATION WITHIN THE CHILD SUPPORT PROGRAM

<u>Reason for this Transmittal</u>
<input type="checkbox"/> State Law or Regulation Change
<input type="checkbox"/> Federal Law or Regulation Change
<input type="checkbox"/> Court Order or Settlement Change
<input type="checkbox"/> Clarification requested by One or More Counties
<input checked="" type="checkbox"/> Initiated by DCSS

This letter supersedes CSS Letter 11-04, dated March 17, 2011. The purpose of this letter is to provide the local child support agencies (LCSAs) additional clarification on the definition of Federal Tax Information (FTI), the FTI data elements that we receive, and the safeguard requirements for handling FTI.

Definition of FTI

The Internal Revenue Service (IRS) Publication 1075, defines FTI as any tax return or return information received from the IRS or secondary source, such as Social Security Administration (SSA), Office of Child Support Enforcement (OCSE) or Bureau of Fiscal Service. FTI also includes any information created by the recipient agency that is derived from the tax return or return information.

Internal Revenue Code (IRC) 6103(b)(2)(B) defines a return as any tax or information return, estimated tax declaration, or refund claim (including amendments, supplements, supporting schedules, attachments, or lists) required by or permitted under the IRC and filed with the IRS by, on behalf of, or with respect to any person or entity. Examples of returns include forms filed on paper or electronically, such as Forms 1040, 941, 1120, and other informational forms, such as 1099 or W-2 taxes. Forms also include supporting schedules, attachments, or lists that are supplemental to or part of such a return. The Publication 1075, states, "FTI may not be masked to change the character of information to circumvent requirements under IRC 6103."

The California Department of Child Support Services (DCSS) receives FTI from sources such as OCSE through the Federal Parent Locate Service (FPLS) and the Federal Offset Program (FOP).

The following table lists the FTI data elements that DCSS receives.

FTI Data Elements	FPLS	FOP	Comments
Name	✓	✓	
Address	✓	✓	DCSS does not consider the IRS a reliable data source for locate purposes. For example, address information is verified from other sources, e.g., the Postmaster or another reliable source. Once independently verified from another source, the address is not considered FTI
City	✓	✓	
State	✓	✓	
Zip Code	✓	✓	
IRS Tax Year	✓		
Self-Employed Indicator	✓		Data element is used if the Self-Employed Indicator is selected within CSE.
Wage Amount	✓		Data element is used if the Self-Employed Indicator is selected within CSE
Return Indicator		✓	
Injured Spouse		✓	
Collection Amount		✓	
Offset Year		✓	

Once the information is in the DCSS Child Support Program environment, authorized users have access to FTI data in the following:

- Intercept Database (IDB)
- Statewide Disbursement Unit (SDU)
- Child Support Enforcement (CSE)
- Data Repository
- Statewide Audit Tool (SAT)
- Case Management Tool (CMT)
- CPQ – CSE Performance Query
- LCSA local databases

FTI does not include information provided directly by the taxpayer or third parties (third parties do not include the secondary sources identified in the Definition of FTI). If the taxpayer or third party subsequently provides returns, return information, or other personally identifiable information independently, the information is not considered FTI as long as the IRS source information is replaced with the newly provided information source.

In addition, DCSS does not consider the IRS a reliable data source for locate purposes. Any information must be independently verified by another reliable source. For example, address information is independently verified from the Postmaster. Once verified, the address information is not considered FTI.

UIFSA Transmittal Documents

As the result of an IRS Safeguard Review, the UIFSA Transmittal documents may contain FTI. When FTI is transported from one location to another care must be taken to provide safeguards in accordance with IRS requirements, such as:

- When hand-carried, FTI must be kept with that individual and protected from unauthorized disclosure.
- When transported through the mail or courier service FTI must be double-sealed, (one envelope within another envelope) or in locked portable containers. The inner envelope should be marked confidential with some indication that only the designated official or delegate is authorized to open it. Using sealed boxes serve the same purpose as double-sealing.
- Paper documents containing FTI, including the UIFSA Transmittal documents, must be labeled as containing "Federal Tax Information."
- Where FTI is commingled with other case information because physical separation is impractical, documents and files containing FTI must be clearly labeled and secured in such a manner that it does not become misplaced or available to unauthorized personnel.

FTI, including the UIFSA Transmittal documents, should not be transmitted or used on e-mail systems. If written policies and/or procedures allow FTI to be included within emails or email attachments, the following requirements must be met:

- Policies and procedures must be implemented to ensure FTI is properly protected and secured when being transmitted via email.
- Mail servers and clients must be securely configured to protect the confidentiality of FTI transmitted in the email system.
- The network infrastructure must be securely configured to block unauthorized traffic, limit security vulnerabilities, and provide an additional security layer to an agency's mail servers and clients.

- Emails that contain FTI should be properly labeled (e.g. email subject contains "FTI") to ensure that the recipient is aware that the message content contains FTI.
- Audit logging must be implemented to properly track all emails that contain FTI.
- Email transmissions that contain FTI must be encrypted using an FIPS 140-2 validated mechanism.
- Malware protection must be implemented at one or more points within the email delivery process to protect against viruses, worms, and other forms of malware.

FTI Handling Requirements

Each child support employee, including any authorized contractor or consultant employed by DCSS or the LCSA, with permission to handle FTI must certify their understanding of the security policy and procedures for safeguarding FTI information and the penalties for unauthorized disclosure. The LCSA must ensure that employees, contractors, and consultants with permission to handle FTI, shall complete the annual Information Security Awareness Training (ISAT). The initial and annual DCSS ISAT certification must be maintained and kept on file for review. Please refer to the DCSS Information Security Manual for additional security awareness training requirements.

FTI Access Restrictions

Access to FTI is limited to child support employees, authorized contractors and consultants with legitimate business needs. FTI must be treated with the highest level of security no matter what form it is in – electronic or hard copy. FTI downloaded from DCSS automated systems or externally received must have security controls in place to prevent unauthorized access at all times. Please refer to the DCSS Information Security Manual or contact the DCSS Information Security Office for the required technical security controls.

Media containing FTI outside of the DCSS automated systems must be stored in locked areas or containers labeled "Contains FTI." LCSAs must maintain an FTI tracking log to record the receipt, processing, and secure storage of FTI. When FTI is removed by staff, the tracking log must state what was removed, when it was removed, and the date returned. If the FTI is no longer needed, the LCSA must log the disposal date, disposal method, and who witnessed the destruction of the FTI. The logs must be made available to DCSS upon request. Please refer to the DCSS Information Security Manual for additional destruction requirements.

FTI Disclosure Requirements

The IRS does not allow the disclosure of FTI to anyone who is not a child support employee, such as vendors, contractors or consultants; unless specific authorization for disclosure has been approved by the IRS and proper handling requirements are in place.

The DCSS Information Security Office is responsible for obtaining necessary permissions from the IRS to share or disclose FTI with non-child support employees. The LCSA must submit an IRS 45 Day Notification Questionnaire to the DCSS ISO mailbox at info.security@dcss.ca.gov prior to executing any contract or agreement.

Vendors, contractors or consultants must have approved data sharing agreements (such as contract, memoranda of understanding or inter-agency agreements) established before receiving any child support information, including FTI. Please refer to the DCSS Information Security Manual for additional secure data transfer requirements.

To address the need for FTI to be included without being specifically disclosed in financial reports provided for judicial and administrative state hearings or other contacts (e.g. custodial parties, auditors, etc.) in the establishment, modification or enforcement of child or spousal support obligations for which required IRS disclosure permission has not been obtained (particularly in judicial determinations of arrears, civil contempt proceedings, or disclosures to custodial parties), DCSS and LCSA personnel are directed to use the following Statewide Audit Tool (SAT) reports that have been revised to adequately safeguard against disclosure of FTI:

1. Simple Report - All Debt Types
2. Split PRWORA Report - All Debt Types (Payments Applied)
3. Split PRWORA Report - All Debt Types (Balances)
4. Combined PRWORA Report - All Debt Types

In the exceptional circumstance when a Superior Court Commissioner will not accept the reports listed above as evidence in contempt proceedings, LCSA personnel may substitute with the use of CSE FIN 701 and FIN 702 reports. However, all entries in the "payment source" column shall be manually redacted. If a declaration is needed to authenticate the records, the declaration should include the following language: "Any redaction made on the attached record is made to comply with federal and state non-disclosure laws."

Safeguards are also required to prevent verbal disclosure of FTI in judicial and administrative state hearings or other contacts with similar potential for unauthorized disclosure of FTI. To the extent possible, verbal references to "federal tax intercepts"

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should be described as "collections." If it is necessary to address the distribution of a federal tax intercept, it should be stated that "the collection has been credited as required by Code of Civil Procedure section 695.221(e)." Any further requests for details should receive the response "That information is confidential. Title 26 USC section 6103 (a)(3) does not permit me to disclose it."

If you have any questions or concerns regarding this information, please contact, the DCSS Information Security Office at (916) 464-5045.

Sincerely,

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JOHN CLEVELAND
Chief Information Security Officer
Technology Services Division