IRS

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:
Mr. Kirschner
Telephone Number:
(202) 566-4912
Refer Reply to:
TX:D:F2 80-F-3445
Date:

12 JAN 1981

Mr. Harold Weisberg
Rt. 12
Frederick, Md. 21701

Dear Mr. Weisberg:

The Department of Justice has asked us to respond to you regarding some information from this agency that is located in its files when searching for records pursuant to your Freedom of Information Act request concerning Oswald and the John F. Kennedy Assassination.

None of the information can be disclosed as it is considered to be exempt from the disclosure requirements of the Freedom of Information Act in accordance with 5 U.S.C. 552 (b)(3), specifically exempted from disclosure by statute (26 U.S.C. 6103).

The enclosed Notice 393 describes the above cited exemption and sets out the appeal procedure.

Sincerely yours,

for Louis H. Kirschner
Joseph R. Sommers
Chief, Section II
Freedom of Information
Branch

Enclosure
Notice 393

Information Concerning Determination To Withhold Records Exempt From The Freedom Of Information Act - 5 U.S.C. 552.

Appeal Rights

You may file an appeal with the Commissioner of Internal Revenue within 35 days after (1) the date of a determination to withhold records or, (2) if some records are released at a later date, the date the last records were released. The appeal must be in writing, signed by you, and contain the following information:

your name and address
description of the requested records
date of the request
date of the letter denying the request

Mail your appeal to:

Freedom of Information Appeal
Commissioner of Internal Revenue
Ben Franklin Station
Post Office Box 929
Washington, D.C. 20044

Judicial Review

If your request for records is denied on appeal, or if you receive no response within the legally permitted period, you may petition the U.S. District Court in the district in which you live, or where your principal place of business is located, or where the records are situated, or in the District Court for the District of Columbia.

Your petition will be treated according to the Federal Rules of Civil Procedure which apply to actions against any agency of the United States. Service of process upon the Internal Revenue Service should be directed to:

Commissioner of Internal Revenue
Attention: CC:GLS
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

In such a court case, the burden is on the Internal Revenue Service to justify withholding the requested records. The court may assess against the United States reasonable attorney fees and other litigation costs incurred by the person who takes the case to court and substantially prevails. See Internal Revenue Service Regulations 26 CFR 601.702 for further details.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552 does not apply to matters that are –

(b)(1) • specifically authorized under rules established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such order;

(b)(2) • related solely to the internal personnel rules and practices of an agency;

(b)(3) • specifically exempt from disclosure by statute, provided that such statute

(A) requires that the matters be withheld from the public so as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular kinds of matters to be withheld;

(b)(4) • trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5) • inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b)(6) • personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) • investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

(A) interfere with enforcement proceedings,

(B) deprive a person of a right to a fair trial or an impartial adjudication,

(C) constitute an unwarranted invasion of personal privacy,

(D) disclose the identity of a confidential source and, for a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(E) disclose investigative techniques and procedures, or

(F) endanger the life or physical safety of law enforcement personnel;

(b)(8) • contained in or related to examination, operating, or condition reports prepared by or for any agency responsible for the regulation or supervision of financial institutions; or

(b)(9) • geological and geophysical information about wells, including maps.

Laws Prohibiting Disclosure

Some laws that contain provisions specifically prohibiting the disclosure of certain information to protect the public's rights of privacy are:

26 U.S.C. 6103 – Confidentiality and Disclosure of Returns and Return Information
Provides that returns and return information remain confidential and restricts their availability.

26 U.S.C. 7213 – Unauthorized Disclosure of Information
Prohibits the disclosure, except as authorized by law, of any return or return information such as a taxpayer's identity, the nature, source or amount of income, payments, receipts, deductions, assets, liabilities, net worth, etc., or the operation, style of work, or apparatus of any manufacturer or producer visited by an officer or employee of the United States in the discharge of official duties.