



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
Office of Budget & Management Analysis  
Bureau of Fiscal Services  
Building 9, Room 234  
W.A. Harriman Campus  
Albany, NY 12227

Patrick Ryan, Director  
Budget & Accounting Services

Catherine Golden, Director  
Procurement Services

March 21, 2013

The New York State Department of Taxation and Finance (DTF) is soliciting bids from qualified vendors to provide services associated with the issuance of this **Request for Quote (RFQ) # 12-23, Mobile Shredding Services for Chicago District Office**. DTF intends to procure secure destruction of confidential material located at the Tax Department's Chicago District Office.

Interested bidders must meet and agree to all of the mandatory requirements described below.

- The Department will require five (5), ninety-six (96) gallon containers be dropped off at 1011 East Touhy Avenue, Des Plaines, Illinois 60018. The number of containers may increase or decrease in volume depending on the amount of controlled destruction the office produces. The containers are to be placed on the Fourth (4<sup>th</sup>) floor, Suite # 475. The vendor will come to the site monthly to perform mobile shredding services. The vendor will be responsible to retrieve the containers from the 4<sup>th</sup> floor and bring them down to be shredded. The vendor is also responsible for then returning the containers to the 4<sup>th</sup> floor after the contents are shredded.
- There may be confidential paper documents that contain IRS information and NYS taxpayer information. All destruction must be in accordance with IRS standards as provided in Section 8 of IRS Publication 1075, attached below as **Exhibit 1**. Please take note of Burning, Shredding, and Pulping of shredding data requirements in the Publication 1075.
- The vendor must be National Association for Information Destruction (NAID) certified and **provide a copy of such certification with the quote**.
- The vendor must agree to provide DTF a Certification of Destruction in accordance with the NAID requirements for each day of service when the services are completed.

- DTF reserves the right to have an Agency employee witness the destruction services.
- The Department may terminate this contract in whole or in part at any time for convenience upon thirty days written notice to the Contractor without penalty or other early termination charges due.
- The winning vendor must agree and stipulate that it will assume all risks of liability in the performance of services to be provided under this proposal, and that it will be solely responsible and liable for damages resulting from all accidents and injuries to person(s) or property. The winning vendor must agree to indemnify, keep and hold harmless, the State of New York, its officers and employees for any and all claims for injury or damage to persons or property, arising out of the service to be performed under this proposal, including negligence, active or passive, or wrongful or improper conduct of selected vendor, its agents, or employees.
- All outstanding tax liabilities, if any, against the vendor in favor of the State of New York must be satisfied prior to contract execution or a payment schedule for their speedy satisfaction.
- The winning vendor must have general liability insurance coverage of Two Million Dollars (\$2M). All staff must be insured against financial losses resulting from their actions, as well as Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. In addition, since the Department's space at the Chicago location is leased, the vendor may also need to obtain a Certificate of Insurance for the building owner, if required.
- The winning vendor will be required to sign a two (2) year contract with the Department of Taxation and Finance. The contract will include up to five (5) one (1) year renewals to extend services. Services are expected to begin within a week of contract execution.

The winning vendor and all employees assigned to this contract must sign Secrecy Agreements, and agree to adhere to the *Secrecy Provisions of the Tax Law and Internal Revenue Code and Acknowledgement of Confidentiality of Internal Revenue Service Tax Return Information and Internal Revenue Code Selected Confidentiality Provisions Pertaining to Contractors* as set forth below in Attachment 2 and Attachment 3. (See Exhibit 2, Secrecy Provisions for Mobile Shredding Contract Purchase Order).

- All costs associated with the requirements of this RFQ must be incorporated into the Bidder's Quote Response Form (Attachment 1). No other add-on costs are permitted. Quotes for RFQ #12-23 must be submitted to this Department by **2:00 PM, April 3rd.**

- Award will be based on lowest cost for services to the vendor who meets all mandatory requirements of this RFQ.

The Designated Contacts for this procurement are:

<u>Employee Name</u>	<u>Phone Number</u>	<u>e-Mail Address</u>
Shannon Plasencia	518-457-0954	<a href="mailto:bfs.contracts@tax.ny.gov">bfs.contracts@tax.ny.gov</a>
Cindy Isgro	518-457-0954	<a href="mailto:bfs.contracts@tax.ny.gov">bfs.contracts@tax.ny.gov</a>
Christine DiVeglia	518-457-0954	<a href="mailto:bfs.contracts@tax.ny.gov">bfs.contracts@tax.ny.gov</a>
Dorothy Lechmanski	518-457-0954	<a href="mailto:bfs.contracts@tax.ny.gov">bfs.contracts@tax.ny.gov</a>
Catherine Golden	518-457-0954	<a href="mailto:bfs.contracts@tax.ny.gov">bfs.contracts@tax.ny.gov</a>

All such questions or contacts must include the following information: your name, your place of principal employment, your occupation, address and telephone number.

Attached please find **RFQ # 12-23 Quote Response Form (Attachment 1)** to be completed and submitted no later than **2:00 PM (EST) April 3, 2013**.

In addition to the **Quote Response Form (Attachment 1)**, vendors **must** complete the following attachments:

- **Attachment 2** – DTF 202, Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code
- **Attachment 3** - Acknowledgement of Confidentiality of Internal Revenue Service Tax Return Information and Internal Revenue Code Selected Confidentiality Provisions Pertaining to Contractors

Signed copies of these documents must be submitted with the vendor quote to the following address (**email preferred**):

Email: [Bfs.contracts@tax.ny.gov](mailto:Bfs.contracts@tax.ny.gov)

Mail: New York State Department of Taxation and Finance  
ATTN: *Shannon Plasencia*  
Procurement Bureau  
W.A. Harriman State Office Building Campus  
Building 9, Room 234  
Albany, NY 12227

The package should clearly indicate: Quote Enclosed - **RFQ#12-23**

**Please note:** If you are using a delivery service, the quote response should be addressed to the Department's campus address, but the delivery service should be instructed to deliver the quote documents to the following address:

90 Cohoes Avenue  
Green Island, New York 12183

### **IRAN DIVESTMENT ACT**

By submitting a quote in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should Department of Taxation and Finance receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, Department of Taxation and Finance will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then Department of Taxation and Finance shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

Department of Taxation and Finance reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

Thank you.

## Exhibit 1 IRS Publication 1075 – Section 8

### DISPOSING OF FEDERAL TAX INFORMATION IRC 6103(p)(4)(F)

### SECTION 8.0

#### **8.1 General**

Users of FTI are required by IRC Section 6103(p)(4)(F) to take certain actions after using Federal tax information to protect its confidentiality (see Exhibit 2, Sec 6103(p)(4) Safeguards, and Exhibit 5, IRC Sec. 7431 Civil Damages for Unauthorized Disclosures of Returns and Return Information). Agency officials and employees either will return the information (including any copies made) to the office from which it was originally obtained or make the information "undisclosable." Agencies will include in their annual report (SAR) a description of the procedures used.

#### **8.2 Returning IRS Information to the Source**

Agencies electing to return IRS information, must use a receipt process and ensure that the confidentiality is protected at all times during transport (see section 4.5, *Handling and Transporting Federal Tax Information*).

#### **8.3 Destruction Methods**

FTI furnished to the user and any paper material generated therefrom, such as extra copies, photo impressions, computer printouts, carbon paper, notes, stenographic notes, and work papers must be destroyed by burning, mulching, pulping, shredding, or disintegrating.

The following precautions must be observed when destroying FTI:

- **Burning precautions:** The material is to be burned in either an incinerator that produces enough heat to burn the entire bundle or the bundle must be separated to ensure that all pages are consumed.
- **Shredding precautions:** To make reconstruction more difficult, the paper must be inserted so that lines of print

are perpendicular to the cutting line and not maintain small amounts of shredded paper. The paper must be shredded to effect 5/16 inch wide or smaller strips; microfilm and microfiche must be shredded to effect a 1/35- inch by 3/8- inch strips. If shredding is part of the overall destruction of FTI, strips can in effect be set at the industry standard (currently 1/2"). However, when deviating from IRS's 5/16" requirement, FTI, as long as it is in this condition (i.e., strips larger than 5/16"), must be safeguarded until it reaches the stage where it is rendered unreadable.

- Pulping of data should be accomplished only after material has been shredded.

**Note:** NIST SP 800-088, Guidelines for Media Sanitization, contains supplemental information for media disposal.

#### **8.4 Other Precautions**

FTI must never be disclosed to an agency's agents or contractors during disposal unless authorized by the Internal Revenue Code. Generally, destruction should be witnessed by an agency employee. The Department of Justice, state tax agencies, and the Social Security Administration may be exempted from the requirement of having agency personnel present during destruction by a contractor, if the contract includes the safeguard provisions required by the Code of Treasury Regulations (CTR) 301.6103(n)-1. The required safeguard language is contained in Exhibit 7, *Contract Language for General Services*. If this method is used, it is recommended that periodically the agency observe the process to ensure compliance. Destruction of FTI should be certified by the contractor when agency participation is not present.

Electronic media containing FTI must not be made available for reuse by other offices or

released for destruction without first being subjected to electromagnetic erasing. If reuse is not intended, the tape should be destroyed by cutting into lengths of 18 inches or less or by burning to effect complete incineration.

Whenever physical media leaves the physical or systemic control of the agency for maintenance, exchange, or other servicing, any FTI on it must be destroyed by:

- Completely overwriting all data tracks a minimum of three times using maximum current that will not damage or impair the recording equipment; or

Or, running a magnetic strip, of sufficient length to reach all areas of the disk, over and under each surface a minimum of three times. If the information cannot be destroyed as suggested, the disk will be damaged in an obvious manner to prevent use in any disk drive unit and discarded.

When using either method for destruction, every third piece of physical electronic media should be checked to ensure appropriate destruction of FTI.

**Note:** Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal.

## Exhibit 2

### SECURITY PROVISIONS FOR MOBILE SHREDDING CONTRACT PURCHASE ORDER

#### A. Required Forms

The Contractor will require each employee and/or subcontractor assigned to this Agreement to sign form **DTF-202 Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code** as set forth in **Attachment 2**; and form **Acknowledgment of Confidentiality of Internal Revenue Service Tax Return Information and Internal Revenue Code Selected Confidentiality Provisions Pertaining to Contractors** as set forth in **Attachment 3**. The Federal Acknowledgment must be signed annually. Both forms will be retained by the Contractor and provided to the Department upon request.

#### B. New York State Department of Taxation and Finance Secrecy Provisions

The various secrecy provisions of the Tax Law (i.e., Tax Law § 697 (e) and 1825) prohibit independent Contractors from disclosing tax information in any manner and provide for misdemeanor prosecution for violations. The secrecy provisions of the Internal Revenue Code (26 USC § 6103) provide for felony prosecution for unauthorized disclosure of Federal tax information in the possession of the Department.

All other information about the Department's operations not covered by the preceding provisions of law must be kept confidential as if it were so covered. Bidder representatives must comply with the administrative procedures enforcing these rules.

The Contractor, all staff members and subcontractors shall agree not to divulge or use, for their own benefit or the benefit of others, confidential tax administration information; and to subscribe to § 73 and 74 the Public Officers Law.

#### C. Federal Secrecy Provisions

##### I. PERFORMANCE

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- 1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.
- 2) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the

performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

- 3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- 4) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.
- 5) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- 6) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

## **II. CRIMINAL/CIVIL SANCTIONS**

- 1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or



- employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.
- 3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
  - 4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A. The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

### **III. INSPECTION**

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

**Attachment 1 - Quote Response Form**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Company Federal ID # \_\_\_\_\_

Date: \_\_\_\_\_

<u>Estimated # of Containers</u>	<u>Rate per Container</u>	<u>Monthly Cost (Estimated containers x rate per container)</u>	<u>Minimum Estimated # of Months</u>	<u>2 year Contract Estimated Costs (monthly cost x 24 months)</u>
<u>5</u>	\$ _____	\$ _____	<u>24</u>	

**Attachment 2 – DTF-202**  
**Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code**

The New York State Tax Law and the Department of Taxation and Finance impose secrecy restrictions on:

- all officers, employees, and agents of the Department of Taxation and Finance;
- any person engaged or retained by this department on an independent contract basis;
- any depository, its officers and employees, to which a return may be delivered;
- any person who is permitted to inspect any report or return;
- Contractors and workmen hired by the department to work on its equipment, buildings, or premises, or to process returns or other papers; and
- visitors to the department’s buildings or premises.

Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for anyone to divulge or make known in any manner the contents or any particulars set forth or disclosed in any report or return required under the Tax Law. Computer files and their contents are covered by the same standards and secrecy provisions of the Tax Law and Internal Revenue Code that apply to physical documents.

Any unlawful disclosure of information is punishable by a fine not exceeding \$10,000, imprisonment not exceeding one year, or both. State officers and employees making unlawful disclosures are subject to dismissal from public office for a period of five years.

Unauthorized disclosure of automated tax systems information developed by the department is strictly prohibited. Examples of confidential systems information include: functional, technical, and detailed systems design; systems architecture; automated analysis techniques; systems analysis and development methodology; audit selection methodologies; and proprietary vendor products such as software packages.

The Internal Revenue Code contains secrecy provisions which apply to federal tax reports and returns. Pursuant to sections 6103 and 7213 of the Internal Revenue Code, penalties similar to those in the New York State law are imposed on any person making an unauthorized disclosure of federal tax information. In addition, section 7213A of the Internal Revenue Code was enacted to prohibit the unauthorized inspection of returns or return information (also known as “browsing”). The unauthorized inspection of returns or return information by state employees is punishable by a fine not exceeding \$1000 for each access, or by imprisonment of not more than one (1) year, or both, together with the cost of prosecution.

---

I certify that I have read the above document and that I have been advised of the statutory and Department of Taxation and Finance secrecy requirements; I certify that I will adhere thereto, even after my relationship with the department is terminated.

Organization: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Address Street: \_\_\_\_\_  
 City: \_\_\_\_\_ State \_\_\_\_\_  
 ZIP code \_\_\_\_\_

**Attachment 3 – Acknowledgement of Confidentiality of IRS Tax Return Information and Internal Revenue Code Selected Confidentiality Provisions Pertaining to Contractors**

**CONTRACTOR NAME:** \_\_\_\_\_

**CONTRACT #:** \_\_\_\_\_

I \_\_\_\_\_, hereby acknowledge that I have read the quoted provisions of sections 6103, 7213, 7213A and 7431 of the Internal Revenue Code (IRC) which are attached to this acknowledgment and I understand that IRC section 6103 imposes strict confidentiality requirements on current and former officers and employees of the Contractor who have or have had access to Federal tax returns or return information. I understand that sections 7213, 7213A and 7431 of the IRC impose civil and criminal penalties for unauthorized inspection or disclosure of any tax return or return information. I further understand that:

1. All Federal tax returns and return information disclosed to the Contractor are confidential pursuant to IRC section 6103(a), and may not be disclosed by any current or former officer or employee of The Contractor except as authorized by the IRC;
2. All tax returns or return information disclosed to the Contractor may be used only for permissible purposes as outlined in IRC section 6103(n);
3. Willful unauthorized inspection or disclosure of tax returns or return information by a current or former officer or employee of the Contractor is prohibited under the terms of IRC sections 7213(a)(1) and 7213(A)(a)(1). Willful unauthorized disclosure of a tax return or return information is punishable as a felony by a fine in any amount not exceeding \$5,000, imprisonment of not more than five years, or both, together with the costs of prosecution. Willful unauthorized inspection of a tax return or return information is punishable by a fine of up to \$1,000 and/or imprisonment of up to one year, together with the costs of prosecution;
4. Under the terms of IRC section 7431(a)(2), a taxpayer may bring a civil lawsuit to recover damages from an officer or employee of the Contractor who has disclosed, knowingly or by reason of negligence, such taxpayer's tax return or return information in violation of any provision of IRC section 6103; and
5. The civil and criminal penalty provisions apply even if the unauthorized disclosures were made after employment has ceased with the Contractor.

Additionally, I acknowledge and understand that violation of these requirements of confidentiality could result in disciplinary action, including termination of employment.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

**INTERNAL REVENUE CODE SELECTED CONFIDENTIALITY PROVISIONS  
PERTAINING TO CONTRACTORS**

**Internal Revenue Code (IRC) Section 6103 imposes strict confidentiality requirements on Contractors and their employees who have access to Federal tax returns or return information.**

**Section 6103, CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION, provides *in part*:**

(a) GENERAL RULE - Returns and return information shall be confidential, and except as authorized by this title –

(1) No other person (or officer or employee thereof) who has or had access to returns or return information under subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

(2) CERTAIN OTHER PERSONS – Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

**IRC Sections 7213, 7213A, and 7431 impose criminal and civil penalties for unauthorized disclosure or inspection of any tax return or return information.**

**Section 7213, UNAUTHORIZED DISCLOSURE OF INFORMATION, provides *in part*:**

(a) RETURNS AND RETURN INFORMATION –

(1) FEDERAL EMPLOYEES AND OTHER PERSONS - It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

- (2) STATE AND OTHER EMPLOYEES - It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103 (b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

**Section 7213(A), UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION, provides *in part*:**

(a) PROHIBITIONS –

- (1) FEDERAL EMPLOYEES AND OTHER PERSONS - It shall be unlawful for

(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

(b) PENALTY –

- (1) IN GENERAL - Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

**Section 7431, CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION, provides *in part*:**

(a) IN GENERAL –

- (2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF THE UNITED STATES - If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) EXCEPTIONS - No liability shall arise under this section with respect to any inspection or disclosure –

- (1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) DAMAGES - In an action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of –

(1) the greater of –

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of –

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action.

(c) PERIOD FOR BRINGING ACTION - Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE - If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of –

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213(A), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) DEFINITIONS - For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).