

# FREEDOM OF INFORMATION ACT ANNUAL REPORT INTERNAL REVENUE SERVICE

Fiscal Year 1999  
October 1, 1998 through September 30, 1999

- I.A. Basic Information Regarding the Report — Please refer to Treasury Department consolidated Annual Report to Congress.
- II.A. How to Make a FOIA Request — Please refer to Treasury Department consolidated Annual Report to Congress.
- II.B. Time Ranges of Responses — Response times are from 1 to over 1000 days, with an average response time of 55 days. The median response time is 22 calendar days.
- II.C. Why Some Requests are Not Granted — The majority of the requests that are denied are either requests for confidential tax information being sought by individuals who are not authorized to receive it, or are requests related to tax investigations, the disclosure of which might impair federal tax administration.
- III. Definitions of Terms and Acronyms Used in Report
  - 1. Agency Specific — None.
  - 2. Basic Terms — Please see consolidated Treasury Report.
- IV. Supporting Statutes Used with Exemption (b)(3)
  - A.1. Listing and brief description of type of information withheld under each statute:

<u>26 U.S.C. 6103</u>	Confidentiality of Returns and Return Information: Prohibits the disclosure of (1) tax returns and return information of third party taxpayers (section 6103(a)); (2) the standards used for selection of returns for examination (section 6103(b)(2)); and (3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)).
<u>31 U.S.C. 5319</u>	Bank Secrecy Act Records: Prohibits the disclosure of records. Generally used to withhold Currency Transaction Reports.
<u>Rule 6(e)</u>	Part of the Federal Rules of Criminal Procedure — Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings.
<u>41 U.S.C. 253(b)</u>	Protects the solicitations of unsuccessful bidders in a competitive proposal. Used to withhold the unsuccessful bidders' contract proposals as well as information in the winning solicitation that is

not incorporated into the contract.

<u>18 U.S.C. 701</u>	Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of IRS employee identification badges and pocket commissions.
<u>Tax Treaty Clauses</u>	Foreign Tax Treaties ratified by the Senate protect tax information provided by foreign governments for use in tax administration.

A.2. Statement of whether a court has upheld the use of the above cited statutes:

26 U.S.C. 6103      *Church of Scientology v. IRS*, 484 U.S. 9 (1987); *Aronson v. IRS*, 973 F.2d 962 (1<sup>st</sup> Cir. 1992); *Stebbins v. Sullivan*, No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); *Wishart v. Commissioner*, C-97-20614-SW (N.D. Cal., decided August 6, 1998); and others.

31 U.S.C. 5319      *Small v. IRS*, 820 F. Supp. 163 (D.N.J. 1992).

Rule 6(e)      *Fund for Constitutional Gov<sup>t</sup> v. National Archives & Records Service*, 656 F. 2<sup>nd</sup> 856, 867 (D.C. Cir. 1981); *Walston v. U.S. Department of Justice*, 799 F. Supp. 193, 195 (D.D.C. 1992).

41 U.S.C. 253(b)      Public Law 104-201; not litigated.

18 U.S.C. 701      Not litigated.

Tax Treaties      Treaties were ratified by the U.S. Senate; not decided by the courts.

Initial FOIA/PA Access Requests

1. Number of initial requests:

Requests Pending as of 10/01/98	4518
Requests Received during FY 1999	28014
Requests Processed during FY 1999	30225
Requests Pending as of 09/30/99	2307

2. Disposition of initial requests:

Total Grants	13271
Partial Grants	3589
Total Denials	326

Number of times each FOIA exemption was used (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	411	(b)(7)(E)	
(b)(2)	125	(b)(7)(A)*	2910	(b)(7)(F)	
(b)(3)	3400	(b)(7)(B)		(b)(8)	0
(b)(4)	52	(b)(7)(C)		(b)(9)	0
(b)(5)	699	(b)(7)(D)			

- The FY 1999 inventory system did not differentiate between the various (b)(7) exemptions. Program changes have been implemented to allow capture of such data in FY 2000. Amount shown in chart above under (b)(7)(A) is the total for all (b)(7) exemptions for FY 1999.

Other reasons for non-disclosure of requested information:

Total of Others (as categorized below)	13029
No Records	4331
Referrals	1695
Request Withdrawn	592
Not a proper FOIA request for some other reason	5592
Misc. other reasons for not processing a request*	829

- Closed without determination because an appeal was filed, or the records had previously been provided to the requester, or the requester had not paid the fee from a previous request, etc.

VI. Appeal of Initial Denials of FOIA/PA Requests

1. Number of appeals:

Received during FY 1999	1526
Processed during FY 1999	1685

2. Disposition of appeals — Number of appeals where the initial determination was:

Completely upheld	196
Partially reversed	176
Completely reversed	54

1. Number of times each FOIA exemption was used in a completely or partially upheld appeal case (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	24	(b)(7)(E)	45
(b)(2)	1	(b)(7)(A)	8	(b)(7)(F)	5
(b)(3)	96	(b)(7)(B)	0	(b)(8)	0
(b)(4)	2	(b)(7)(C)	30	(b)(9)	0
(b)(5)	12	(b)(7)(D)	9		

Other reasons for non-disclosure during appeal process:

Total of Others (as categorized below)	1259
No Records	15
Withdrawn	769
Fee-related	11
Treated as a non-appeal	428
Not an agency record	1
Other (litigation due to failure to respond)	35

VII. Compliance with Time Limits/Status of Pending Requests

1. Median time for processing requests:

Simple Requests		
a.	Number of requests processed	0
b.	Median number of days to process	N/A
Complex Requests		
a.	Number of requests processed	22937
b.	Median number of days to process	22
Expedited Requests		
a.	Number of request processed	0
b.	Median number of days to process	N/A

2. Status of pending requests (as of September 30, 1999):

Number of requests pending	2307
Median age of pending cases	35

VIII. Comparison with Previous Year

Optional — Comparison not made.

IX. Costs/FOIA Staffing

1. Staffing levels, given in number of positions in agency:

Full-time FOIA personnel	9
Personnel with part-time or occasional FOIA duties (in total work-years)	59
Total number of personnel (in work-years)	68

2. Total costs (including all staff and resources):

FOIA processing (including appeals)	\$ 6,806,542
Litigation related activities (estimated)	935,322
Total Costs	\$ 7,741,864

24. Fees

Total fees collected by the agency during FY 1999	\$ 134,208
Percentage of total costs	1.7%