

# Is it ever ethical to disclose tax information, and to whom?

Ethics, our handy Webster's Dictionary tells us, is the study of standards and moral judgment. [Lawyers](#) have a code of ethics running to booklet form and so do [doctors](#) (a one-pager) and [accountants](#).

The [American Payroll Association's](#) code of ethics includes eight points, but let's stick to three of them:

- To strive for perfect compliance, accuracy, and timeliness of all payroll activities.
- To be mindful of the personal aspect of the payroll relationship between employer and employee and to ensure that harmony is maintained through constant concern for the Payroll Professional's fellow employees
- To maintain the absolute confidentiality of the payroll within the procedures of the employer.

## OK to say

Confidentiality runs through every statement of ethics (yes, even for lawyers). For its part, the IRS is bound by IRC § 6103 to keep taxpayers' tax information, including even taxpayers' names, confidential. There are numerous exceptions, of course.

*Would you violate § 6103 in the following example?* Let's say Matthew is an attorney who works at a law firm. The firm's policy is to discipline attorneys who don't properly fulfill their tax obligations. The IRS serves a levy notice with respect to his tax liability on the firm's payroll department. Debra, the payroll manager, processes the levy notice and then informs the managing partners of Matthew's tax delinquency to enable the firm to take appropriate action against him.

No, according to the IRS. The [redisclosure](#) of an employee's tax delinquency doesn't violate § 6103 because Debra is a private employee.

So you could redisclose the following payroll tax information to the appropriate member of upper management:

- The name of an employee who is subject to a lock-in letter
- The name of an employee whose name and Social Security number don't match, as shown in an IRS notice you received
- The name of an employee whose passport has been revoked due to outstanding tax liabilities.

## What if? The compliance gray areas

Without question, it would be a serious ethical breach if one of your staff blabbed about an employee's salary or taxes. But things aren't often that black and white—to disclose or not to disclose and to whom—which can put you and your staff in an uncomfortable position.

## Consider the following:

1. What if you were told to not deposit the company's payroll taxes, but were told to sign checks to pay other creditors, instead?
2. What if you were told to not file Forms 941 or W-2?
3. What if you knew the company was cheating on its taxes?

Let's take the first two points together. The consequences for not depositing and reporting can be financially devastating, since the IRS can hold you personally liable, if you're a responsible person who acted willfully. And saying someone else made you do it usually isn't a good defense.

Here, the ethical path would be to put your objections in writing, discuss your objections with a member of upper management who wasn't involved in making those decisions, consult a lawyer and if all else fails, contact the IRS and resign.

Resolving what to do if you knew the company cheated on its taxes is a tougher call, because it's outside payroll. If your personal ethics motivate you to blow the whistle to the IRS, you can contact the IRS'

[Whistleblower Office](#).

The IRS, however, may blast your cover to bits once it starts auditing your company's books or it may become obvious to management who the whistleblower is. OSHA has issued interim final regulations prohibiting retaliation against taxpayers who provide information or assist in an investigation they reasonably believe to be related to a tax underpayment or tax fraud.