

Centro de Trabajadores Unidos v. Bessent: D.C. Circuit Considers IRS-ICE Information-Sharing Agreement

September 4, 2025

On April 7, 2025, the Internal Revenue Service (IRS) and Immigration and Customs Enforcement (ICE) entered into a [Memorandum of Understanding](#) (MOU or information-sharing agreement) to establish procedures between the two agencies to share information for the enforcement of criminal immigration laws. Four organizations that serve immigrants (plaintiffs) have filed a [lawsuit](#) (*Centro de Trabajadores Unidos v. Bessent*) against the government and [asked](#) the court to stop the information sharing, alleging that the agreement violates the [statutorily provided](#) confidentiality of federal tax returns and return information. The U.S. District Court for the District of Columbia [denied](#) the plaintiffs' request for a preliminary injunction, finding in part that the government is likely to succeed on its argument that the MOU comports with an exception to such confidentiality for disclosures for nontax criminal investigations and proceedings. The plaintiffs have [appealed](#) the denial of the preliminary injunction to the U.S. Court of Appeals for the D.C. Circuit. Oral argument is [scheduled](#) for October 3.

This Legal Sidebar discusses the confidentiality of federal tax returns and return information and the exception to such confidentiality at issue in the case. It gives background on the IRS-ICE MOU and what the MOU requires from each agency. It then summarizes the parties' arguments before the appeals court. Finally, it presents considerations for Congress. Although this Sidebar does not address a [separate lawsuit](#) filed by a taxpayer rights group over the Department of Government Efficiency's access to IRS data, many of the [arguments](#) raised by the taxpayer rights group in a [motion](#) in that case against the MOU are similar to the plaintiffs' arguments in *Centro de Trabajadores Unidos*.

Confidentiality of Federal Tax Returns and Return Information

[Section 6103](#) of the Internal Revenue Code (I.R.C.) [establishes](#) that federal tax returns and return information are confidential by default unless a statute expressly authorizes their disclosure. "[Return information](#)" is defined to include, among other things, "a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth,

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... or tax payments.” “[Taxpayer return information](#)” is a subset of “return information” that “is filed with, or furnished to, the [IRS] *by or on behalf of the taxpayer*” (emphasis added). In other words, “taxpayer return information” is “return information” that comes from the taxpayer or someone acting on the taxpayer’s behalf, rather than from another source such as the IRS or a third party.

Disclosures for Nontax Criminal Enforcement

Section 6103’s general prohibition against disclosure is subject to a series of statutory exceptions. Among them, [§ 6103\(i\)](#) authorizes disclosures of tax return information to certain federal officers and employees for use in nontax criminal enforcement. One paragraph—[§ 6103\(i\)\(2\)](#)—states that upon written request, “the Secretary [of the Treasury] shall disclose return information (*other than taxpayer return information*)” (emphasis added) for use in criminal investigations and proceedings. The paragraph further provides—in [§ 6103\(i\)\(2\)\(C\)](#)—that for such disclosures, “*a taxpayer’s identity* shall not be treated as taxpayer return information” (emphasis added). “[Taxpayer identity](#)” is defined to include the taxpayer’s name, mailing address, and taxpayer identifying number.

Section 6103(i)(2) imposes [content requirements](#) for requests for disclosure, which include that the request be in writing and set forth “the [name and address](#) of the taxpayer” (emphasis added). The written request must also state “the [statutory authority](#) under which the proceeding or investigation . . . is being conducted; and the [specific reason](#) or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.”

The disclosed information must be used “[solely](#)” for the “[preparation](#) for any judicial or administrative proceeding” pertaining to the enforcement of a specifically designated Federal nontax criminal statute, “any [investigation](#) which may result in such a proceeding,” or any [federal grand jury](#) proceeding pertaining to enforcement of such a criminal statute.

Other paragraphs in [§ 6103\(i\)](#) permitting disclosure of tax returns and/or return information for nontax criminal enforcement include the following:

- [§ 6103\(i\)\(1\)](#): “Disclosure of returns and return information for use in criminal investigations”
- [§ 6103\(i\)\(3\)](#): “Disclosure of return information to apprise appropriate officials of criminal or terrorist activities or emergency circumstances”
- [§ 6103\(i\)\(4\)](#): “Use of certain disclosed returns and return information in judicial or administrative proceedings”
- [§ 6103\(i\)\(5\)](#): “Disclosure to locate fugitives from justice”
- [§ 6103\(i\)\(7\)](#): “Disclosure upon request of information relating to terrorist activities, etc.”

As with [§ 6103\(i\)\(2\)](#), the above have certain limitations on the use of the disclosed information, content and procedural requirements for requests for disclosure, and/or restrictions on the type of information that can be disclosed. For example, [§ 6103\(i\)\(1\)](#)—which, unlike [§ 6103\(i\)\(2\)](#), permits the disclosure of *taxpayer* return information for use in criminal investigations and proceedings—requires a [court order](#) granting the disclosure. [Section 6103\(i\)\(5\)](#)—which allows access to *taxpayer* return information “to locate fugitives from justice”—also requires a [court order](#). [Section 6103\(i\)\(4\)](#) has rules for the use of returns and return information in judicial and administrative proceedings, including when prosecutors may disclose certain return information in criminal proceedings. Under that paragraph, disclosures of *taxpayer* return information in such proceedings require [court approval](#); disclosures of “[return information \(other than taxpayer return information\)](#)” do not.

The IRS-ICE Information-Sharing Agreement

In the [district court litigation](#), the government filed a [Memorandum of Understanding](#) (MOU) between IRS and ICE “for the [exchange](#) of information for nontax criminal enforcement,” which was approved by the respective agencies on April 7, 2025. The MOU [invokes Executive Order 14161](#). The MOU [states](#) that the Executive Order directs the Department of Homeland Security (DHS) and other agencies to coordinate and “take immediate steps to identify, exclude, or remove aliens illegally present in the United States.” The MOU’s [stated purpose](#) “is to establish the procedures and requirements for ICE’s submission of valid IRC § 6103(i)(2) requests for addresses of persons subject to criminal investigation under [8 U.S.C. § 1253\(a\)\(1\)](#) or other specifically designated nontax Federal criminal statutes.”

Under the MOU, ICE agrees to submit to the IRS “[requests](#) for address information for specifically identified individuals.” The MOU specifies that the requests [will contain](#), among other things, the following information:

- “The name and address of the taxpayer” and “[a]ny other information ICE can provide to help the IRS identify each individual, such as SSNs, ITINs, etc.”
- “The specifically designated nontax Federal criminal statute (i.e., 8 U.S.C. § 1253(a)(1) or other specifically designated nontax Federal criminal statute) under which an investigation or proceeding regarding the individual is being conducted.”
- “The date of the final order of removal and the related case number assigned to each such order.”
- “The specific reason or reasons why disclosure is, or may be, relevant to the nontax criminal investigation or proceeding.”

The MOU states that upon receipt of requests for address information from ICE, the [IRS will](#), among other things, do the following:

- “Review each request for completeness and validity and return to ICE any requests not meeting the requirements necessary for disclosure pursuant to IRC § 6103(i)(2).”
- “Search for the last known address for each individual in each request.”
- “For each individual the IRS is able to identify from the information provided by ICE, provide the IRS last known address for that individual. For each individual the IRS cannot identify from the information provided by ICE, indicate ‘no match’ in the response.”

As [provided by](#) the MOU, the IRS and ICE also [executed](#) a separate implementation agreement, but that agreement has not been introduced into either the [district court](#) or [circuit court](#) record.

The District Court’s Denial of a Preliminary Injunction

Four organizations that serve immigrants filed a [complaint](#) in D.C. District Court, citing media reports that the IRS and DHS were close to reaching an information-sharing agreement under which the IRS would provide immigration authorities with taxpayer address information on a wide scale. The plaintiffs alleged that the reported deal is not in accordance with the law because it [violates](#) § 6103, and that the decision to disclose the information under § 6103(i)(2) “for the purpose of identifying the locations of individuals for immigration enforcement” is “[arbitrary and capricious](#)” in violation of the Administrative Procedure Act (APA). The plaintiffs subsequently [moved](#) for a preliminary injunction to stop the “irreparable harm” they [alleged](#) would result from the disclosures. In its [opposition](#) to the motion for a

preliminary injunction, the government announced that the IRS and DHS had entered into the MOU, a version of which was filed with the court.

The district court [denied](#) the preliminary injunction motion on May 12, 2025. In considering the factors for preliminary injunction, the district court judge found the plaintiffs to be [unlikely to prevail](#) on the merits of their claim that the MOU violates § 6103. The opinion focuses on the statutory text of § 6103(i)(2). The court held, “The [plain language](#) of 26 U.S.C. § 6103(i)(2) mandates disclosure under the specific circumstances and preconditions outlined in the [MOU].” The plaintiffs had argued that Congress [did not intend](#) for § 6103(i)(2) to authorize requests for only addresses as the MOU provides and the IRS had not previously [interpreted](#) the paragraph to allow this use. The court rejected the legislative intent and inconsistent interpretation arguments, stating that “the Court cannot read additional restrictions into the statute’s [clear text](#).” The plaintiffs [appealed](#) the decision to the U.S. Court of Appeals for the D.C. Circuit.

The Parties’ Arguments on Appeal

Briefing before the circuit court regarding the preliminary injunction [closed](#) on August 22, 2025. Oral argument is [scheduled](#) for October 3, 2025. The following summarizes the parties’ substantive arguments before the circuit court on § 6103(i)(2) and the MOU. The parties also made arguments about [standing](#), [reviewability](#) of the MOU under the [APA](#), and [availability](#) of injunctive relief for the unauthorized disclosure of return information. This Legal Sidebar focuses on the tax return information disclosure arguments.

The Government’s Plain-Language Argument

The government’s argument [centers](#) on the text of § 6103(i)(2):

[T]he express terms of Section 6103(i)(2) authorize the IRS to disclose a taxpayer’s name and address to a requesting agency, notwithstanding that the agency must provide the taxpayer’s name and address in its request. . . . Thus, nothing prohibits a requesting agency from providing a name and address to the IRS and asking what address information the IRS has on file, so long as the requesting agency has explained why the requested address information “is, or may be, relevant to” its investigation or proceeding. . . . To hold otherwise would improperly render (i)(2)(C)’s reference to a “taxpayer’s identity”—defined in (b)(6) to include a taxpayer’s mailing address—a nullity.

In other words, according to the government, the combination of § 6103(i)(2)’s authorization of disclosure of return information “*other than* taxpayer return information” (emphasis added) and § 6103(i)(2)(C)’s exclusion of “a taxpayer’s identity” from “taxpayer return information” [requires](#) the IRS to provide a taxpayer’s address upon receipt of a [satisfactory request](#).

Responding to the plaintiffs’ legislative intent argument that “the IRS cannot honor a request that seeks *only* a taxpayer’s address,” the government [asserts](#), “nothing in the text or structure of (i)(2) imposes a minimum quantum of return information that must be requested thereunder, and the District Court correctly declined to create one out of whole cloth.” Because the plain language of § 6103(i)(2) is clear, the government argues that the court [should not consider](#) the plaintiffs’ legislative history, extratextual considerations, and policy arguments.

The Plaintiffs’ Legislative Intent Argument

The plaintiffs argue that Congress did not [intend](#) for § 6103(i)(2) to “be used *solely* to obtain taxpayer address information from the IRS” (emphasis added) and at a [mass](#) scale, as the MOU envisions. They argue that the IRS had previously interpreted the paragraph to disallow requests to solely locate a taxpayer’s address and that the IRS’s [change](#) in interpretation in the MOU is arbitrary and capricious in violation of the APA.

In support, the plaintiffs argue that allowing for disclosure of only a taxpayer's identity *contravenes* other provisions in § 6103(i) relating to disclosures for nontax criminal enforcement. Specifically, they argue that allowing such disclosures conflicts with § 6103(i)(5)'s requirement for a court order for disclosure of *taxpayer* location information to locate fugitives of justice, making § 6103(i)(5) "a *dead letter*."

Additionally, they argue that allowing for disclosure of only a taxpayer's identity under § 6103(i)(2) is *inconsistent* with § 6103(i)(4)'s requirement for court approval to use taxpayer return information in criminal proceedings, which does not apply to use of return information that is not provided by a taxpayer. They also *point* to § 6103(i)(7), which has a similar distinction between "return information" and "*taxpayer* return information" (emphasis added) for disclosure of information relating to terrorist activities:

Sections 6103(i)(7)(A) and (B) authorize disclosure of return information for terrorism investigations and counterintelligence without a court order, but do not permit disclosure of taxpayer return information other than allowing a taxpayer's identity to be furnished along with other return information. By contrast, section 6103(i)(7)(C) is broader—it permits disclosure of "any return or return information"—but requires a court order authorizing such access.

According to the plaintiffs, the *structure* of § 6103 demonstrates congressional intent to provide taxpayer return information more protection than information that does not come from the taxpayer. The plaintiffs thus assert, "The *better reading* of section 6103(i)(2) is that Congress did not intend for it to be used as a mechanism for obtaining a taxpayer's address, in circumvention of the process for obtaining a court order under section 6103(i)(1) or (7)(C)."

As for § 6103(i)(2)(C)'s exclusion of "a taxpayer's identity" from "taxpayer return information," the plaintiffs argue that the exclusion, which was enacted by a *later amendment*, was intended to facilitate the transmission of a taxpayer's name and address *along with* return information. The exclusion was thus intended to address a paperwork issue of transmission *necessarily requiring* a name and address. Citing Senate and House reports on the amendment, the plaintiffs *assert* that "Congress did not envision that its amendment would open the door to disclosing taxpayer address information to law enforcement when no other relevant return information is sought."

The Parties' Arguments on the IRS's Obligations in Responding to Requests

Press reporting on a potential information-sharing agreement between IRS and ICE described it as "allow[ing] immigration officials to use tax data *to confirm* the names and addresses of people suspected of being in the country illegally" (emphasis added) and "authoriz[ing] data *verification* for people 'subject to criminal investigation' for violating immigration law" (emphasis added). The obligation of the IRS upon receipt of requests for information under § 6103(i)(2) has emerged as an issue in the briefing of *the parties* and certain *amici*.

The government argues that the requirement to provide "the *name and address* of the taxpayer" in written requests for disclosure under § 6103(i)(2) merely requires the requesting agency "provide, in *good faith*, the *last-known address* reflected in its files" (emphasis added). Further, the government argues that the IRS need not *verify* that the provided address matches the "current" address in IRS files in order to honor the request.

The plaintiffs argue that "only the taxpayer's *current address* can *trigger* the IRS's duties under section 6103(i)(2)—not any address available to the agency—or even a taxpayer's former address" (emphasis added).

Considerations for Congress

The parties' arguments focus substantially on Congress's intent in enacting § 6103(i)(2) and whether the paragraph's plain language supports the IRS's current interpretation in the MOU. The government argues that the MOU conforms to the [plain language](#) of § 6103(i)(2). The plaintiffs argue that Congress did not [intend](#) for § 6103(i)(2) to "be used *solely* to obtain taxpayer address information from the IRS" (emphasis added) and at a [mass](#) scale, as the MOU contemplates.

Congress could consider amending § 6103(i)(2) if it wanted to clarify the intended use of that paragraph. Congress could consider specifically providing that § 6103(i)(2) allows disclosure of a taxpayer's address for immigration enforcement, or Congress could consider prohibiting agencies from requesting only address information under § 6103(i)(2). Congress could also consider clarifying the duty, if any, the IRS has to verify the taxpayer's address when responding to requests for it. Congress could additionally choose to remove or amend the procedural requirements for requesting or using return information. Congress could let litigation on § 6103(i)(2) proceed and assess amending the paragraph in light of court interpretation.

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