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**From:**

**Sent:** Friday, November 05, 2010 9:50:31 AM

**To:**

**Cc:**

**Subject:** Your Inquiry

As a starting point, sections 6103(e)(1)(B) and 6103(e)(7) authorize the disclosure of a joint return, and return information relating thereto, to either of the "individuals with respect to whom the return is filed." Your question concerns whether that authority remains viable when one such individual claims not to have signed the purported joint return. I believe it does; because there has been no final determination as to the spouse's tax liability stemming from the purported joint return, the spouse remains an "individual with respect to whom the return is filed."

But there may be other authority as well. You can look to section 6103(h)(4). (Note that there is some overlap between the authorities in sections 6103(e) and (h) with respect to a taxpayer's ability to access his or her own information.) Section 6103(h)(4) establishes disclosure authority in "administrative and judicial proceedings pertaining to tax administration," which include examinations and Appeals consideration. Subsections (A), (B), and (C) set forth the relevant authority for disclosure of return and return information to a taxpayer, either where that taxpayer is a "party to the proceeding" or the "proceeding arose out of, or in connection with, determining the taxpayer's liability" [subpart A], or where either of the third party tests [subparts B and C] apply. As noted above, because there has been no final determination as to the spouse's tax liability stemming from the purported joint return, it strikes me that the spouse remains a party to the matter that is before Appeals. Alternatively, depending on the particular facts, one or more of these other subparts may apply