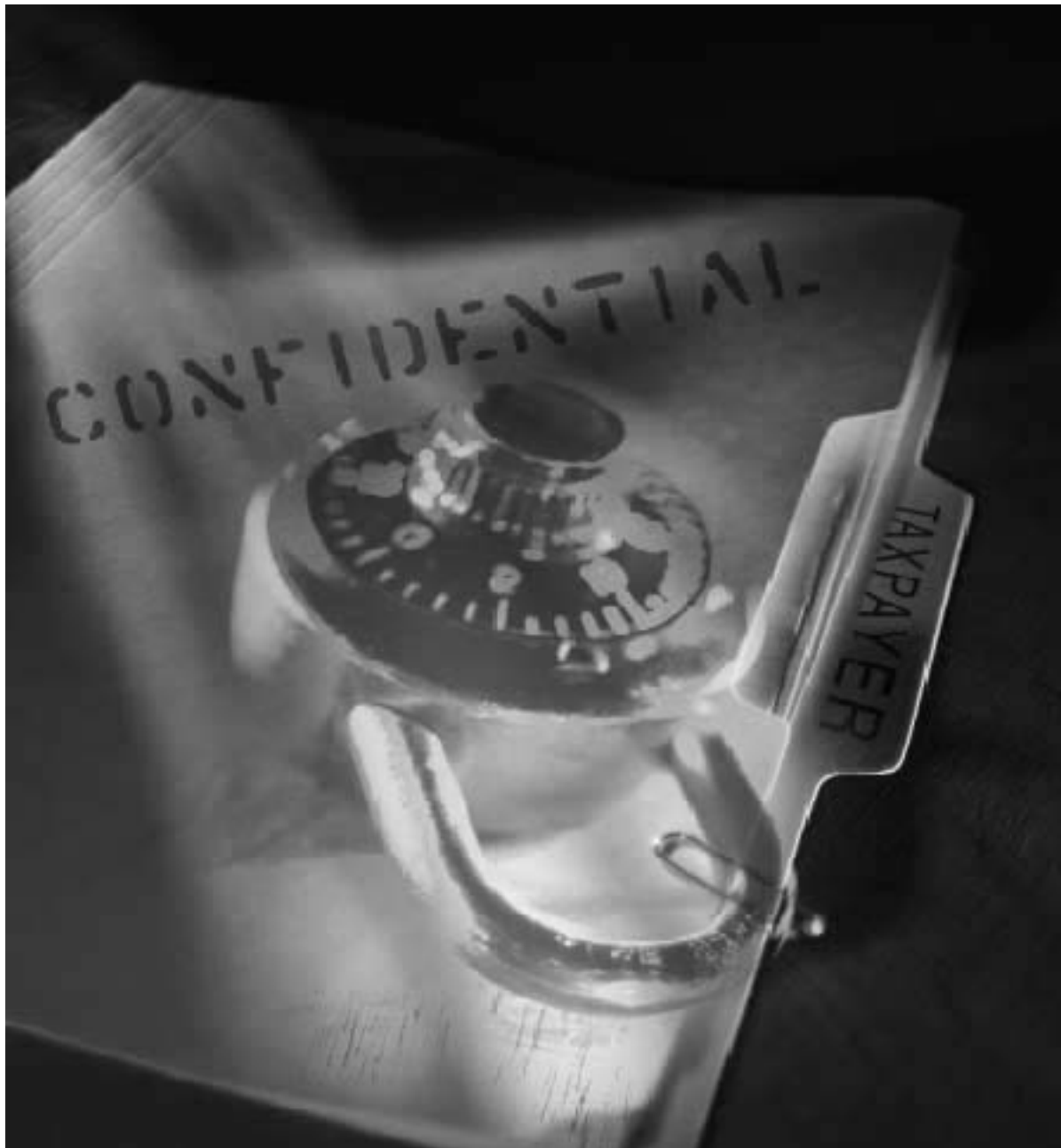


Privacy and Confidentiality

—*A Public Trust*



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Privacy and Confidentiality – A Public Trust

Introduction

The Internal Revenue Service (IRS) sponsors the VITA (Volunteer Income Tax Assistance) and the TCE (Tax Counseling for the Elderly) programs that provide free tax return preparation for low to moderate income and elderly taxpayers. Details governing the operation of these two programs are covered in various materials; however, one of the foundational principles for both programs is that the confidentiality of the information provided is guaranteed so that the public trust is protected. This document addresses areas where diligence to detail is needed.

Background

Partners and volunteers are not subject to all of the regulations to which IRS employees are held accountable. Information provided by individual taxpayers to a VITA or TCE volunteer is not considered “return information” protected by 26 U.S.C. Section 6103 until it is received, recorded, or collected by the IRS. However, TCE volunteers are subject to the criminal penalty provisions of 18 U.S.C. § 1905 for any improper disclosures of this information. It is critical to the programs’ success to ensure volunteers and their partnering organizations safeguard taxpayer information AND understand their responsibilities in this respect.

Taxpayers utilizing volunteer program services provide personal information to the volunteers, such as names, addresses, social security numbers, birth dates, and bank account information. This type of information is a prime target for identity theft. Therefore, partners and volunteers must keep the information confidential and protect it from unauthorized individuals and misuse.

Protection against Legal Action

The Volunteer Protection Act of 1997, Public Law 105-19, protects volunteers from liability for negligent acts they perform within the scope of their responsibilities in the organization for who they volunteer. The Act excludes conduct that is willful or criminal, grossly negligent, or reckless, or that constitutes a conscious, vagrant indifference to the rights or safety of the individual potentially harmed by the volunteer.

Privacy and Confidentiality - Key Principles

Key principles have been identified below that can ensure the integrity of and continued public trust in the volunteer tax preparation programs.

- Partners and volunteers must keep confidential the information provided for tax return preparation.
- Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.
- Partners with a need to retain and use the information (for purposes other than the preparation of the current year tax return) must provide written notice to customers that explains 1) what information will be retained, 2) for how long, 3) how the information will be used, and 4) that it will be protected. The customer must be provided an option allowing them to refuse this use of their information.
- Partners and volunteers who use IRS loaned equipment must delete customer information after filing season tax return preparation activities are completed.
- Partners and site coordinators must keep confidential any personal volunteer information provided.

Obtaining Taxpayer Information

Partners and volunteers must keep confidential the information provided for tax return preparation.

Privacy during the Interview

To the extent possible, arrange assistance areas to prevent others from easily overhearing or viewing the information under discussion. When volunteers require assistance to complete the tax return, they should ensure privacy is maintained during these discussions.

All tax returns should be prepared at the site with the taxpayer present. Taxpayer information should not be dropped off at a site for tax return preparation at a later time. In situations where sufficient information to complete the return is unavailable, all documents should be returned to the taxpayer with a request that they be brought back, along with the remaining information needed to complete the tax return.

Requesting the Information

When preparing tax returns, only information that is necessary and relevant should be requested. The information provided is entrusted to the volunteer with the taxpayer's confidence that it will not be shared or used in any unauthorized manner.

Information such as name, address, SSN, birth dates, marital status, bank account information for direct deposit and other basic information is necessary to prepare the return. Documents that are relevant to ensure identity and accuracy include:

- Identity documents consist of a driver's license (U.S.), employer ID, school ID, birth certificate, state identification card (U.S.), Military ID, national identity card, visa, or passport. However, any other valid form of identification that would normally be used to prove identity is acceptable. Volunteers preparing tax returns should confirm the identity of the taxpayer to avoid the potential for identity theft or tax fraud. If the taxpayer cannot substantiate their identity, or if the volunteer is uncomfortable accepting the items presented as proof of identity, the taxpayer should be instructed to seek assistance elsewhere.
- Original or copies of social security cards or other form of SSN verification or ITIN (Individual Taxpayer Identification Number) card or letter. Volunteers should confirm the SSN or ITIN and the correct spelling of names for all individuals listed on the tax return. In the event a taxpayer provides verification of the ITIN and the W-2 contains a SSN that cannot be verified, the ITIN will be the number used to prepare the tax return. The mismatch of names and SSN information is one of the top ten reasons for delays in processing electronic tax returns.

Sharing the Information

Information provided for tax return preparation should not be shared with anyone who does not have a need to know. Individuals have the need to know if their involvement is required to process the information to its final disposition. Examples of "need to know" would include sharing information for the purpose of obtaining guidance in tax return completion, electronically transmitting the return, and/or reviewing to ensure the quality of the finished tax return. It is not acceptable to share information with others, even another volunteer, if their involvement in the tax return preparation is not required. For instance, sharing income information, birth dates, or even the marital status of taxpayers with other volunteers, taxpayers, family or friends as a matter of curiosity or interest is not acceptable.

Maintaining and Ensuring Confidentiality of Taxpayer Information

Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.

Protecting the Information

Once the tax return is complete and the taxpayer has left, volunteers and sponsors must ensure the individual information provided during return preparation is protected. Protecting the information is not limited to preventing its theft but to ensuring it is recoverable. Partners should regularly make back up copies of the data they process in the event a computer dies. This action reduces the chance that the taxpayer could be harmed by the inability to file a return. For returns electronically filed, the IRS requires that certain documents be retained. For a complete list of the documents required to be retained, refer to Publication 3189, Volunteer e-file Administrator Guide.

Copies of paper prepared tax returns or related information should not be maintained. Paper prepared returns are provided to the taxpayer for mailing to the IRS and do not require retention.

If the site currently provides the required documents to their local territory office for retention, this option is still available.¹

Some states may have different requirements for retaining state related electronic filing documents. Partners should familiarize themselves with state requirements. This document does not impact the recordkeeping requirements imposed by individual states.

Providing a Safe Environment for Information

Implement a process to ensure information is adequately protected at all times. The process should include but is not limited to the following:

- Ensure that the information provided during the course of tax return preparation is under the care of volunteers at all times.
- Use locked storage.
- Keep devices (i.e. diskettes, CDs, flash drives, pen drives, key drives, thumb drives, etc.) containing taxpayer information secure.
- Label and account for the devices.
- Secure the equipment used for electronic tax return preparation and filing.
- Use passwords to prevent unauthorized access to the computer and software.
- Ensure portable equipment is under the care of a volunteer at all times.
- Use limited or controlled access locations for storing equipment.
- Guard equipment connected to the Internet with virus protection software.
- Ensure information is not accessible to general computer users who share equipment.
- Use data encryption processes when available to secure data stored on computers and on back-up devices.
- Ensure computer settings do not store passwords and any other key information that could provide access to information on the computer.
- Record the make, model and serial number of all computer equipment used and keep in a secure location. This can save valuable time if it is necessary to report the equipment as lost or stolen.

¹ Documents and/or information that are provided to the IRS for storage and are subsequently used for tax administration purposes by the IRS, **become** “return information” protected by 26 U.S.C. 6103. At this point, they cannot be returned to a partner or volunteer for any use. This includes Forms 8453, back up disks containing tax return information, and/or supporting documents.

Stolen and Lost Information

No matter how diligent partners and volunteers are in protecting information, there is always a chance that it will be stolen or lost. If this occurs, notify the appropriate authorities and then thoroughly evaluate the incident. Be sure to take action to prevent other losses of information. Because each incident of loss is unique, partners should evaluate the circumstances surrounding the loss and decide whether the risk of identity theft warrants notification of the individuals whose information may have been compromised.

The following table depicts situations that have occurred and may prove helpful in evaluating risk and determining whether notification should be considered. All examples assume that individual tax return information is present.

ID	Situation	Recommendation
1	A laptop and its bag are stolen. The passwords to the computer programs were recorded on a note card in the bag.	Notify. Risk is high because the password was with the computer and makes the data easily accessible.
	A laptop is stolen. Passwords are required to access the programs on the computer and they were not compromised. The software program used to prepare returns encrypts the data and return information is only stored within this software.	Do not notify. Use of passwords and encryption greatly reduce the risk of compromised data.
	A folder with information reports (W-2, 1099) and/or Forms 8453 or 8879 is stolen from the site by an angry taxpayer.	Notify. Risk is high because the information is easily accessible.
	The IRS notifies the site that a Form 8453 was not received for one of the returns it transmitted. The partner checks their records and finds that the form was mailed to the IRS with 25 other forms. Only the one form is in question.	Do not notify. All the other documents were received at the IRS and the risk that this one form was stolen or lost in the mail is extremely small.
	A disk containing return information is lost. The data on the disk was saved using a tax preparation software program that encrypts the data when saved to a disk.	Do not notify. Use of encryption on the disk greatly reduces the risk of compromised data.
	A laptop is stolen with encryption and the passwords are not compromised but the briefcase contained a return acknowledgement report for accepted returns.	Notify. The information on the return acknowledgement report is easily accessible.

These examples are not all inclusive. The action proposed is a recommendation and is not a requirement of the VITA or TCE programs. IRS recognizes that many organizations that sponsor VITA or TCE sites have their own legal departments and this information is not intended to circumvent their guidance or direction.

Partners with a need to retain and use the information (for purposes other than the preparation of the current year tax return) must provide written notice to customers that explains 1) what information will be retained, 2) for how long, 3) how the information will be used, and 4) that it will be protected. The customer must be provided an option allowing them to refuse this use of their information.

Retaining the Information

Some partners may use information provided to volunteers for productivity, program evaluation, and/or promotion activities. This includes all information provided by a taxpayer during the course of the tax return preparation, including whether the customer has a bank account, whether the customer owns a home, etc. It is acceptable to keep this information, whether maintained electronically or in paper format, when it is disclosed to the customer in a notice 1) the type of information being maintained, 2) how long the information will be retained, 3) how the information will be used, and 4) that it will be protected, and if the customer agrees to this retention and use. The notice should also offer the customer assurance that

service will not be denied if they do not agree to their data being used in this way. None of the information retained may be used for commercial purposes, given to a third party or sold for any purpose.

Possible uses may include but are not limited to:

- Data retention for subsequent year tax return preparation. Examples of data retained for subsequent year tax return preparation include names, addresses, dependents, social security numbers, birth dates, employer identification numbers and employer addresses.
- Generation of mailing lists to provide notice of tax return preparation and/or other program related activities or services of the partner that can benefit low to moderate income taxpayers.
- Program evaluation. Data that is not specific enough to identify the actual person involved is referred to as aggregate data and can be used to assess program accomplishment, needs or trends. It would not include names, social security numbers or the addresses. A non-identifying portion of the address, such as zip code and/or city would be acceptable for retention. Use of aggregate data does not require taxpayer agreement or notification.

Although partners are not required to retain a signature of the individual granting the permission to use the information for other than current year return preparation, partners should consider the risk associated with the process developed in the event information is lost or stolen and a taxpayer is potentially harmed. Without a signed document, a potential risk is that a taxpayer may say they did not grant permission for retaining the information. Although there is no way to guarantee data is always 100% secure, the procedures and processes implemented to protect the data can greatly reduce any threat of harm. The information retained should be properly protected and disposed of once it is no longer needed. Proper disposal consists of shredding and burning paper documents or destroying disks containing personal, sensitive information.

Partners and volunteers who use IRS loaned equipment must delete customer information after filing season tax return preparation activities are completed.

Deleting Taxpayer Information

Information may not be stored on the IRS loaned equipment once filing season activities are completed. The information on IRS loaned computers must be deleted as part of site closing activities. Deleting the information properly will prevent unauthorized disclosure of confidential information.

Providers of electronic filing are reminded that they are required to retain a complete copy of the electronic portion of the tax return (which may be retained on magnetic media) until December 31 of the current tax year, which can be readily and accurately converted into an electronic transmission that the IRS can process.

Protection of Partner/Volunteer Information

Partners and site coordinators must keep confidential any personal volunteer information provided.

Volunteer information is available to IRS employees for the purposes of administering the volunteer tax return preparation program. Information pertaining to a potential volunteer, such as the name, home address, phone number, foreign language skill and other pertinent information may be provided to a partner for purposes of ensuring that the potential volunteer is provided an opportunity to participate in the program. Similar information pertaining to current volunteers may also be provided to a partner to help coordinate maximum efficient use of volunteer skills. This information must be kept confidential and should not be disclosed to unauthorized individuals.

Release of Partner Information

IRS will protect the information provided to the extent allowable by law. However, in some situations, IRS may be compelled to provide information requested under 5 U.S.C. 552, Freedom of Information Act (FOIA). For example a FOIA request for copies of the Application to Participate in the IRS E-file Program, Form 8633, could require the release of the applicant's name, business address and whether the applicant is licensed or bonded in accordance with state or local requirements. IRS cannot control how the information provided through a FOIA is used by the requester.

Sponsor and Volunteer Agreements

A Sponsor Agreement, Form 13533, and a Volunteer Agreement Standards of Conduct - VITA/TCE Programs, Form 13615, is included with this publication. These forms are used to acknowledge receipt of and/or agreement to maintaining key principles around privacy and confidentiality of the VITA and TCE programs.

The Sponsor Agreement, Form 13533, is requested from new partners and from existing partners when the publication changes. It reiterates the key principles of privacy and confidentiality found in the Publication 4299. By signing this agreement, the sponsor agrees to ensure their volunteers are aware of the standards of conduct and privacy and confidentiality key principles. The signed form is maintained in the local SPEC office.

The Form 13615 is often referred to as the standards of conduct and is solicited annually during or subsequent to training. It serves two purposes. It obtains the volunteer's agreement to the standards of conduct for the VITA and TCE programs and provides the IRS and/or partner a place to record the level of training received and the corresponding test scores used to determine whether a volunteer is certified to provide return preparation and/or tax law assistance.

The Form 13615 is required for all volunteers before working at a site. It is maintained at the partner or site level and is used to show the level of volunteer certification.

Potential Consequences

As part of the Tax Counseling for the Elderly (TCE) cooperative agreement with the IRS, all TCE sponsors agree to (by signing a certification document) take all the reasonable steps necessary to ensure that information provided by taxpayers remains confidential. This includes instructing volunteers that such information is strictly confidential and must not be discussed with anyone without a need to know and that the provisions relating to disclosure of tax information of Section 1905 of Title 18, United States Code, applies to volunteers as if they were employees of the United States. Disclosure of confidential information can result in fines or imprisonment.

The Volunteer Protection Act of 1997 excludes conduct that is willful or criminal, grossly negligent, or reckless, or conduct that constitutes a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. If a volunteer discloses information, fails to protect personal information or is otherwise flagrantly irresponsible with information entrusted to him/her, criminal charges or a civil law suit could be brought against the volunteer.

Another potential consequence of failure to adequately protect taxpayer information is that the IRS may discontinue the relationship with the partner or volunteer. Federal financial assistance may no longer be provided such as software, computer equipment or electronic filing privileges.

Reference Materials

For further information and guidance please refer to the following:

Publication 1345- Handbook for Authorized IRS *e-file* Providers

Publication 1345A- Filing Season Supplement for Authorized IRS *e-file* Providers

Publication 3189- Volunteer *e-file* Administrator Guide

Form 8633- Application to Participate in IRS *e-file* Program

Publication 1101- Application Package and Guidelines for Managing a TCE Program

Publication 1084- Volunteer Coordinator's Handbook

Publication 4600- Safeguarding Taxpayer Information

Suggested Notice Language

The following statements are examples that may be used to notify a taxpayer that the site would like to retain information for reasons other than the current year return preparation process. The statement must be modified to fit the situation for retention and must address 1) what information will be retained, 2) for how long, 3) how the information will be used, and 4) that it will be protected. The customer must be provided an option allowing them to refuse this use of their information.

Retention for next year tax return preparation

We would like to keep the information provided for this year's tax return preparation to assist in preparing a tax return next year in the event you visit us again. It will be kept through (insert date), and then destroyed properly. We will provide both physical and electronic protection for the information while in our care. It will not be sold or shared with anyone else. If you do not want us to keep this information for this purpose, you may tell us so and it will not affect the service we provide today.

Retention for financial assistance at a college or university

We would like to keep the information provided for this year's return preparation to assist you in applying for financial assistance at this institution. It will be kept through (insert date), and then destroyed properly. In the event you need your return information for the application for financial assistance, it will be released upon your request. We will provide both physical and electronic protection for the information while in our care. It will not be sold or shared with anyone else. If you do not want us to keep this information for this purpose, you may tell us so and it will not affect the service we provide today.

Retention for mailing list of partner

We would like to keep your name and contact information for our mailing list. We sponsor a variety of activities in the community and want you to know about the activities. It will be kept through (insert date), and then destroyed properly. We will provide both physical and electronic protection for the information while in our care. It will not be sold or shared with anyone else. If you do not want us to keep this information for this purpose, you may tell us so and it will not affect the service we provide today.

Notice is not required to retain the information for the current year return processing as required by IRS e-file regulations nor if retaining only aggregate data. The aggregate data must not include information that could identify an individual such as name, complete address, phone number, social security number, etc. It generally contains a portion of the address (city, state or zip code), the type of return prepared, and information from the return such as income, EITC or other credits, balance due and/or refund.

Sponsor Agreement

We appreciate your willingness and commitment to serve as a sponsor in the Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) volunteer tax return preparation programs.

To maintain program integrity and provide for reasonable protection of information provided by the individuals who use the services, it is essential that the following key principles be followed.

- Partners and volunteers must keep confidential the information provided for tax return preparation.
- Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.
- Partners with a need to retain and use the information (for purposes other than the preparation of the current year tax return) must provide written notice to customers outlining what information will be retained, for how long, how the information will be used, that it will be protected and obtain their approval. The customer must be provided an option allowing them to refuse this use of their information.
- Partners and volunteers who use IRS loaned equipment must delete data after filing season tax return preparation activities are completed.
- Partners and site coordinators are expected to keep confidential any personal volunteer information provided.

Sponsor Name:

Street Address:

Telephone Number:

E-Mail Address:

Please complete the information requested above and sign below. By signing below, you agree to ensure volunteers participating in the VITA or TCE program are aware of the Standards of Conduct and privacy and confidentiality key principles.

Sponsor Signature

Date

Privacy Act Notice

The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory.

Our legal right to ask for information is 5 U.S.C. 301.

We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers.

Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

Department of the Treasury – Internal Revenue Service
Volunteer Agreement
Standards of Conduct – VITA/TCE Programs

The mission of the VITA/TCE Program is to provide free basic tax return preparation for eligible taxpayers. Volunteers are the program's most valuable resource. To establish the greatest degree of public trust Volunteers have a responsibility to provide high quality service and uphold the highest of ethical standards.

Instructions: To be completed by all volunteers in the VITA/TCE program.

As a participant in the VITA/TCE Program, I agree to the following standards of conduct:

- I will treat all taxpayers professionally, with courtesy and respect.
- I will safeguard the confidentiality of taxpayer information.
- I will apply the tax laws equitably and accurately to the best of my ability.
- I will only prepare returns for which I am certified. (Basic, Advanced, etc.)
- I will exercise reasonable care in the use and protection of equipment and supplies.
- I will not solicit business from taxpayers I assist or use the knowledge I have gained about them for any direct or indirect personal benefit for me or any other specific individual.
- I will not accept payment from taxpayers for the services I provide. I may receive compensation as an employee of a program sponsor.

Volunteer Information

Print Full Name

Signature and Date

Home Street Address

Daytime Telephone

City, State and Zip Code

E-mail Address

Site and/or Partner Name

This form is to be retained at the Site or by the Partner.

Volunteer position(s) _____
(screener, preparer, interpreter, reviewer, etc.)

(Partner Use Only) Test Results – Only volunteers preparing federal tax returns, answering tax law questions, or reviewing federal tax returns for accuracy are required to be certified.

	Basic	Intermediate	Advanced	Military	International	Foreign Student/Scholars		
						Part 1	Part 2	Part 3
Volunteer's Test Score								
Certification level – Mark the appropriate box								

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Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

