

**GUIDELINES FOR TRUSTEE ACCESS
AND CONTROL OF DEBTOR TAX RETURNS**

Revised January 2006

1. A trustee shall retain a debtor's tax returns in the appropriate section (*e.g.*, the financial section) of the case file, either paper or electronic, from the date received until the tax returns are no longer necessary to either prepare for the § 341 meeting, to evaluate the debtor's proposed plan, to aid the trustee in the administration of the case, or to support any litigation in the case.
2. Before the § 341 meeting, a trustee shall generally limit access to a debtor's tax returns to only trustee personnel directly involved in: (a) preparation for the § 341 meeting; (b) the evaluation of the debtor's proposed chapter 13 plan; or (c) case administration. Unless necessary to aid the trustee in carrying out the trustee's duties, no other office personnel shall be permitted to view or to copy a debtor's tax returns. Trustees shall provide mail and file clerks with guidance on the proper handling of debtor tax returns.
3. A trustee shall limit the number of copies made of a debtor's tax returns to the minimum necessary to enable trustee personnel to carry out the trustee's duties. Once the need for a copy no longer exists, that copy shall be destroyed promptly (refer to Item 11 below).
4. A trustee shall not permit copies of a debtor's tax returns to leave his/her office before the § 341 meeting, except as necessary to carry out the trustee's duties. The trustee, however, may provide copies of a debtor's tax returns to the United States Trustee upon request of the United States Trustee. A trustee may also provide copies of a debtor's tax returns to the trustee's retained professionals as necessary to enable them to perform their duties.
5. A trustee shall not provide copies of a debtor's tax returns to a creditor or any other party in interest, except pursuant to a court order or as an exhibit to a pleading that by rule must be served upon that creditor or party in interest. *See* Committee Note to Interim Bankruptcy Rule 4002.
6. A trustee shall not permit any person other than the debtor, the debtor's attorney, or the representative of the United States Trustee to view a debtor's tax returns at the § 341 meeting. The exception to this is that, with the express written consent of the debtor and, if applicable, the debtor's attorney, the trustee may show a debtor's tax returns to a party in interest or the party's attorney. At the conclusion of the § 341 meeting, the trustee shall either return all copies of the debtor's tax returns to the debtor or return the copies to the trustee's office. If the trustee returns the debtor's tax returns to the debtor at the § 341 meeting it is a recommended practice that the trustee shall state such on the record.

7. Under no circumstances shall copies of a debtor's tax returns be discarded by the trustee at the § 341 meeting site or left unprotected so that they can be viewed by unauthorized persons.
8. A trustee shall ensure that all copies of a debtor's tax returns in the trustee's possession are destroyed following the § 341 meeting unless the trustee deems it appropriate to maintain copies for use in conjunction with further proceedings in the case. The trustee shall create and maintain a system to ensure that debtor tax returns that are not destroyed immediately after a § 341 meeting are maintained no longer than provided in this policy, and that the tax returns are handled in such a way as to protect a debtor's privacy to the extent reasonably possible. A suggested practice is to maintain a log of the tax returns not destroyed or returned following the § 341 meeting and periodically review the continued need to maintain such returns.
9. After the § 341 meeting, a trustee shall not provide copies of a debtor's tax returns to any person other than the trustee's professionals or the United States Trustee except, when necessary, a trustee may use a debtor's tax returns as an evidentiary exhibit in connection with a court proceeding. If the trustee uses a debtor's tax returns as an exhibit, all information not germane to the issue before the court shall be redacted from the tax returns.
10. If a trustee comes into possession of copies of a debtor's tax returns filed after the commencement of the case, those tax returns shall be handled and safeguarded in accordance with these guidelines.
11. Hard copies of debtor tax returns shall be destroyed by shredding in the trustee's office or by a qualified professional firm that provides appropriate safeguards. Furthermore, the trustee shall institute and maintain procedures to assure the security and ultimate permanent deletion of all electronic copies of debtor tax returns, including copies attached to email messages. Permanent deletion of electronic files should follow industry standards and best practices.
12. These guidelines control to the extent that they conflict with other records retention guidelines that the United States Trustee has heretofore given to trustees.