

Approved: May 16, 2002.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Privacy Act of 1974; System of Records

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury (Department) gives notice of a newly proposed Internal Revenue Service (IRS) system of records, Employee Complaint and Allegation Referral Records-Treasury/IRS 00.007.

**DATES:** Comments must be received no later than June 27, 2002. The proposed system of records will be effective July 8, 2002 unless the IRS receives comments which would result in a contrary determination.

**ADDRESS:** Comments should be sent to the Director, Commissioner's Complaint Processing and Analysis Group, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspecting at the IRS Freedom of Information Reading Room also located at 1111 Constitution Avenue, NW. The telephone number for the Reading Room is (202) 622-5164.

**FOR FURTHER INFORMATION CONTACT:** Jim D'Elia, Commissioner's Complaint Processing and Analysis Group, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone number (202) 622-5212.

**SUPPLEMENTARY INFORMATION:** The IRS is establishing this system of records (1) to promote public confidence in the integrity of the IRS; (2) to identify and monitor complaints, allegations and other information received concerning current and former IRS employees and IRS contractors; (3) to ensure that the IRS provides a timely and appropriate response to those complaints, allegations and other information; (4) to advise complainants of the status and results of investigations or inquiries conducted as a result of the IRS's receipt of their complaints, and (5) to compile summary reports. The reports will provide non-identifying information about the type of complaints, allegations and resulting actions concerning current and former IRS employees and IRS

contractors and will be distributed to IRS and Department of the Treasury executives, managers and employees, the Congress and the public. Specifically, section 1211 of PL 104-168, Taxpayer Bill of Rights 2 (TBOR2), requires that the Secretary of the Treasury submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of instances involving the misconduct of employees of the IRS. Section 3701 of PL 105-206, the IRS Restructuring and Reform Act (RRA) of 1998, requires that the Secretary or the Secretary's delegate maintain records of taxpayer complaints of misconduct by IRS employees on an individual employee basis to prepare the report required by section 1211 of TBOR2. Since parts of this system are retrieved by individual identifier, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

Treasury/IRS 00.003-Customer Feedback System, last published on December 10, 2001, at 66 FR 63787, contains records of complaints, problems, compliments, and suggestions about IRS employees and IRS systems and processes that involve administration of the tax laws and procedures, received by the IRS from taxpayers or their representatives. These complaints and problems might, but do not necessarily have to, include allegations of conduct by IRS employees that could involve the mandatory discharge provisions of section 203 of the IRS RRA. IRS 00.003 contains disposition information on the matters that do not include section 1203 allegations. When complaints or problems lodged by taxpayers or their representatives include allegations of conduct by IRS employees that could involve the mandatory discharge provisions of section 1203, the matter is forwarded to the Treasury Inspector General for Tax Administration (TIGTA) for review. Upon the conclusion of that review (which may or may not involve an investigation), TIGTA returns the matter to IRS for appropriate action. Records of complaints, information from TIGTA Reports of Investigation (if any), and disposition information for these matters are stored in IRS 00.007.

Treasury/IRS 00.007 also contains records of allegations of administrative or criminal misconduct, other than those involving section 1203, from whatever source, which are referred back to the IRS from TIGTA without TIGTA investigation, or as part of TIGTA's investigation (e.g., complaints against any IRS executive or GS-15 manager; allegations of criminal

wrongdoing, or any allegation lodged directly with TIGTA). IRS 00.007 also contains disposition information on these matters.

Records relating to personnel actions taken against IRS employees as a result of allegations maintained in IRS 00.003, and/or 00.007 may be found in Treasury/IRS 36.001-Appeals, Grievances and Complaints Records, and Treasury/IRS 36.003-General Personnel and Payroll Records. IRS 36.001 and IRS 36.003 were published in the **Federal Register** on December 10, 2001, at 66 FR 63819 and 66 FR 63820 respectively.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated November 30, 2000.

A proposed rule to exempt this system from certain provisions of the Privacy Act (5 U.S.C. 552a) will be published separately in the **Federal Register**. The proposed IRS system of records, Employee Complaint and Allegation Referral Records-Treasury/IRS 00.007, is published in its entirety below.

Dated: May 20, 2002.

**W. Earl Wright, Jr.,**

*Chief Management and Administrative Programs Officer.*

#### Treasury/IRS 00.007

##### SYSTEM NAME:

Employee Complaint and Allegation Referral Records.

##### SYSTEM LOCATION:

Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service (IRS) National Office, 1111 Constitution Avenue, NW., Washington DC.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current and former employees of the IRS and IRS contractors who are the subjects of complaints directed to, or inquiries or investigations conducted by the IRS or the Treasury Inspector General for Tax Administration (TIGTA); (2) individuals (complainants) who submit these complaints.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documents containing the complaint, allegation or other information regarding current and

former IRS employees and IRS contractors; (2) documents containing information about efforts to determine the relevant facts, and the applicable law, rule or regulation; and (3) documents containing information about actions taken in response to a complaint, allegation or other information regarding current and former IRS employees and IRS contractors.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; sec. 7803 of Pub. L. 105-206, the IRS Restructuring and Reform Act (RRA) of 1998; sec. 1211 of Pub. L. 104-168, Taxpayer Bill of Rights 2 (TBOR2); sec. 3701 of the RRA of 1998.

**PURPOSE(S):**

Records in this system are used (1) to promote public confidence in the integrity of the IRS; (2) to identify and monitor complaints, allegations and other information received concerning current and former IRS employees and IRS contractors; (3) to ensure that the IRS provides a timely and appropriate response to those complaints, allegations and other information; (4) to advise complainants of the status and results of investigations or inquiries conducted as a result of the IRS's receipt of their complaints, and (5) to compile summary reports. The reports will provide non-identifying information about the type of complaints, allegations and resulting actions concerning current and former IRS employees and IRS contractors and will be distributed to IRS and Department of the Treasury executives, managers and employees, the Congress and the public. Specifically, section 1211 of Pub. L. 104-168, TBOR2, requires that the Secretary of the Treasury submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of instances involving the misconduct of employees of the IRS. Section 3701 of Pub. L. 105-206, the IRS RRA of 1998, requires that the Secretary or the Secretary's delegate maintain records of taxpayer complaints of misconduct by IRS employees on an individual employee basis to prepare the report required by section 1211 of TBOR2.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or

foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations;

(2) Disclose information to a Federal, State or local agency relevant to or necessary to the agency's hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose relevant, non-privileged information to a Federal, State, local, or foreign court, magistrate, grand jury, or administrative tribunal in accordance with applicable constitutional, substantive, or procedural law or practice. This use includes disclosures to an opposing party or his/her attorney for the purpose of negotiation on such matters as settlement or plea bargaining. This use also includes disclosures to an opposing party or his/her attorney, or a witness, during the proceeding itself or in discovery.

(4) Provide information to third parties during the course of an investigation or inquiry to the extent necessary to obtain information pertinent to the investigation or inquiry;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Disclose information to a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or is seeking to become licensed;

(7) Disclose information to complainants or victims to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim. Information concerning the progress of the investigation or case is limited strictly to whether the investigation/case is opened or closed. Information about any disciplinary action is provided only after the subject of the action has exhausted all reasonable appeal rights;

(8) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the information pertains;

(9) Disclose information to a government contractor to the extent the contractor needs this information to perform the contract.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By name of individual who submitted the complaint, allegation or other information, or by name of the individual that is the subject of the complaint, allegation or other information.

**SAFEGUARDS:**

Access is limited to authorized Treasury and IRS personnel who have a need to know. Paper records are stored in locked file containers, in rooms that are locked after business hours or when unoccupied. Access to electronic media is controlled by computer passwords. Security procedures are in accord with IRM 1(16)1, Manager's Security Handbook and IRM 2.1.10, Information Systems Security.

**RETENTION AND DISPOSAL:**

Records are maintained in accordance with IRM 1.15.2, Records Disposition Handbook.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine if this system of records contains a record pertaining to them may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Records Access Procedures" below.

**RECORDS ACCESS PROCEDURES:**

Individuals seeking access to any record maintained in this system, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, Appendix B. Inquiries should be addressed to the Director, Commissioner's Complaint Processing and Analysis Group, Internal Revenue Service, N:ADC:C, 1111 Constitution Avenue, NW., Washington, DC 20224.

**CONTESTING RECORD PROCEDURES:**

See "Records Access Procedures" above. 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

**RECORD SOURCE CATEGORIES:**

This system of records is exempt from the Privacy Act provision which requires that record source categories be

reported. (See "Exemptions Claimed for the System," below.)

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system is exempt from (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f)

of the Privacy Act pursuant to U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

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