

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



The IRS Implemented Processes to Prevent Future Unauthorized Disclosures of Form 990-T Information

September 25, 2023

Report Number: 2023-2S-069



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20024

September 25, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Memorandum – The IRS Implemented Processes to Prevent Future Unauthorized Disclosures of Form 990-T Information
(Review # 202320R23)

This memorandum presents the results of our review of the effectiveness of the Internal Revenue Service's (IRS) actions to address the control weaknesses resulting in the inappropriate disclosure of Form 990-T, *Exempt Organization Business Income Tax Return*, data. We performed this review during the period February through August 2023. We are issuing this memorandum to document the actions taken or planned by the IRS.

Management's complete response to the draft memorandum is included as Appendix II. If you have any questions, please contact me or Danny Verneuille, Assistant Inspector General for Audit (Security and Information Technology Services).

Background

Form 990-T is a tax return used by tax exempt organizations to report unrelated business income and tax liabilities with the IRS.

Tax exempt organizations use Form 990-T to:

- Report unrelated business income.
- Figure and report unrelated business income tax liability.
- Report proxy tax liability.
- Claim a refund of income tax paid by a regulated investment company or a real estate investment trust on undistributed long-term capital gain.
- Request a credit for certain Federal excise taxes paid or for small employer health insurance premiums paid.

The data on the Form 990-T are disclosable only for § 501(c)(3) charities (Charitable Organizations). The Forms 990-T data for the other approximately 30 types of nonprofit organizations identified in Title 26 United States Code § 501 are not disclosable to the public. To address the public reporting requirement, the IRS's Research, Applied Analytics, and Statistics (RAAS) function extracts the Forms 990-T data and sends the file to a contractor to be posted to the IRS's website under the Tax Exempt Organization Search (TEOS) web page.

Objective

The overall objective of this review was to evaluate the effectiveness of the IRS's actions to address the control weaknesses resulting in the inappropriate disclosure of Form 990-T information.

Results of Review

First Unauthorized Disclosure

According to the IRS, on August 8, 2022, the IRS's RAAS function discovered that Forms 990-T data from non-501(c)(3) charities were posted inappropriately to the TEOS web page beginning in February 2021. The IRS took immediate action to remove the files and diagnose the problem. On August 26, 2022, the IRS concluded that the disclosure met the Federal Information Security Modernization Act of 2014 standard that requires a report to Congress "not later than seven days after the date on which there is reasonable basis to conclude that a major incident has occurred."¹ The Department of the Treasury notified Congress on September 2, 2022, via a seven-day letter as required. The IRS notified the Department of the Treasury's Security Operations Center and the Treasury Inspector General for Tax Administration of the disclosure,

¹ Pub. L. No. 113-283.

and posted public notice of the disclosure on IRS.gov.² See Appendix I for a timeline of key disclosure-related events from 2022 through 2023.

In response to the disclosure, the IRS established a Breach Response Team within the Privacy, Governmental Liaison, and Disclosure Office to evaluate this incident. The Privacy, Governmental Liaison, and Disclosure Office supports IRS operations and works with stakeholders to detect, resolve, and prevent issues related to the protection and use of identity information. According to IRS management, the Breach Response Team determined the Forms 990-T data disclosure incident to be an 'inadvertent disclosure.' In addition, the Treasury Inspector General for Tax Administration's Office of Investigations investigated the incident and determined that the disclosure resulted from the usage of a custom-created but outdated computer script, which was used to automate a portion of the process.

In September 2022, the Department of the Treasury submitted to Congress a 30-day report as required by the Federal Information Security Modernization Act of 2014. The Act requires that the 30-day report should include the complete details such as detection, response, and remediation activities. According to the report, disclosed data included names, business addresses, titles, telephone numbers, limited financial information, compensation attributable to unrelated business, and Preparer Tax Identification Numbers. The IRS reported there were no Social Security Numbers, unauthorized individual income information, detailed financial account information, or other sensitive information disclosed.

The 30-day report also stated that the root cause of the disclosure was a programming error. A key data table that lists organizations and determines which data will be released included the non-501(c)(3)-charitable organizations. The error prompted the IRS to implement new programming code that filters out all nondisclosable returns before populating the data table that lists the Form 990-T filings that will be publicly disclosed. IRS management stated that at the beginning of November 2022, programming code changes were implemented to correct the issue. However, the IRS did not provide us supporting evidence of the changes being tested prior to being implemented. In addition, the IRS stated that it planned to implement a quality control process as a preventative measure. The process would include a monthly review of a Form 990-T statistical sample to verify the appropriate redaction of data.

Second Unauthorized Disclosure

In late November 2022, a second inadvertent disclosure incident occurred while the IRS was reposting information that had been temporarily removed from TEOS and implementing preventative measures. On November 29, 2022, the IRS contractor began the process of posting files, and on December 1, 2022, an external party notified the IRS that the newly released files that were posted by the contractor appeared to be a subset of the files from the first unauthorized disclosure. According to IRS management, they immediately asked the contractor to remove the data from the TEOS web page. The Department of the Treasury reported to Congress in a seven-day letter dated December 15, 2022, that the error occurred because the old files had not been purged by the contractor. According to contractor representatives and IRS management, the contractor cannot delete any IRS data without IRS approval. In addition, the contractor representatives stated that they do not have the ability to view or modify the

² The Treasury Security Operations Center deploys new Enterprise-wide and Department-wide security capabilities, or integrates those already in place, as appropriate, to strengthen the overall protection of the Enterprise and Department.

data. However, in our review of the contract between the IRS and the contractor, it requires the contractor to purge IRS data within 30 days from the time it has served its contractual purpose, or the contract expires or is terminated by the IRS.

In January 2023, the Department of the Treasury submitted to Congress a 30-day report for the second unauthorized disclosure that confirmed that the data posted was the same from the first disclosure and that no new Personally Identifiable Information (PII) was made public. However, the IRS did not include a root cause analysis for the second unauthorized disclosure.

On March 2, 2023, the U.S. House Ways and Means Committee requested within 14 days for the IRS to provide nine deliverables explaining various aspects of both disclosure events. The deliverables include how the IRS learned about the disclosures, details of the data disclosed, remediation efforts, duties of the contractor, any agency investigation or efforts, notices sent to taxpayers that had improperly posted data, and contractor agreements. The IRS indicated that it had begun submitting documents to the Committee on August 4, 2023.

The IRS Has Taken Steps to Prevent Future Unauthorized Disclosures

We determined that the IRS took actions to address the control weaknesses resulting in the Forms 990-T data inadvertent disclosure incidents. The following are examples of areas in which the IRS has taken actions to prevent future unauthorized disclosures:

The IRS implemented a new process to ensure that Form 990-T files do not reside on contractor-managed storage

The Department of the Treasury reported that the IRS identified a root cause for the first incident in its September 2022, 30-day report to Congress. However, it did not identify the root cause for the second incident in the January 2023, 30-day report to Congress. We determined the second disclosure occurred because the IRS was unaware of the contractor's process for storing Form 990-T files in a file staging area located at the contractor's facilities.

As a result of the first incident in August 2022, the IRS's Integrated Enterprise Portal team was asked to remove all 2021 and 2022 external facing files from the TEOS web page, which included both disclosable files and files that should not have been disclosed. The Integrated Enterprise Portal team removed all the requested files; however, the contractor-owned staging area contained 3.6 million files dating back to 2016 that were not removed.

When the IRS resumed providing the Form 990-T files prepared with the new programming code to the contractor to post to the TEOS web page in November 2022, the process to create the file for posting remained the same. Specifically, the new Form 990-T data received by the contractor from the IRS for posting were consolidated into the data in the staging area (still containing the data inappropriately disclosed) to create a new file. The contractor posted this new file to the TEOS web page in late November 2022, which resulted in the second disclosure. The IRS addressed this issue by implementing a new posting process.

To implement the new posting process, the contractor first deleted the files in the staging area because the files were no longer needed. Before the second incident, posting occurred monthly. The contractor's role was to accumulate records into large files until they reached a maximum file size. The large, accumulated files would then be posted. According to IRS management, under the new process, there would be no posting of accumulated files. The posting of files would be separate and distinct, *e.g.*, all files for each month will post separately and not be accumulated with the files for another month for posting. After posting the file for the current

month, the prior month's file is deleted. According to the modified contract between the IRS and the contractor dated March 23, 2023, as part of the new process, the contractor is not permitted to retain an archive copy of the data on its managed storage and is required to delete Form 990-T files once approved by the IRS and document the deletions.

A quality control process was implemented

According to IRS management, in October 2022, they implemented a two-part quality control process to assist in preventing future inadvertent disclosures:

1. A statistically representative sample of Forms 990-T is reviewed by the business owner, Tax Exempt and Government Entities Division, to verify appropriate redaction and disclosability. In addition, the Tax Exempt and Government Entities Division staff reviews electronically filed returns on the Employee User Portal to identify if any Forms 990-T were not restricted properly.
2. The RAAS function generates a list of returns prepared for publication, and the Tax Exempt and Government Entities Division staff reviews the list of returns to be published confirming that they exist on the disclosable Form 990-T list.

We analyzed the Form 990-T quality control process and identified an additional consideration.

The RAAS function could consider matching the universe of § 501(c)(3) Form 990-T filing organizations systemically against the Exempt Organization's Business Master File to exclude those with inappropriately listed status codes. At the end of our audit work, RAAS stated that it receives two monthly extracts from the Business Master File: nondisclosable Forms 990-T and organizations whose § 501(c)3 status was revoked. RAAS obtains monthly updates to ensure that the information is as current as possible. In April 2023, the IRS implemented an additional step using a computer matching process to exclude return information that should not be disclosed. According to IRS personnel, continuous improvements will be made to the quality control process as needed.

Conclusion

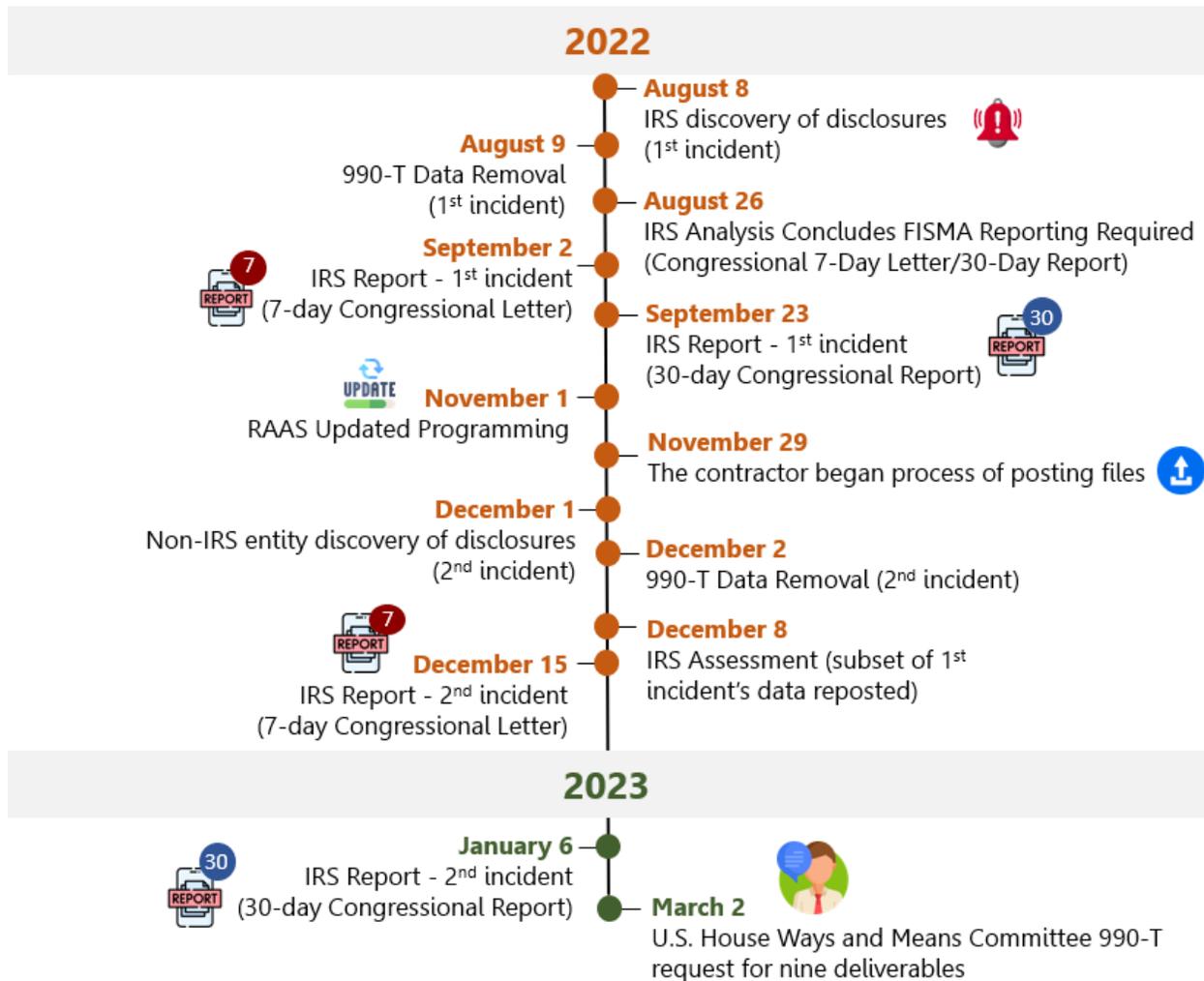
The IRS is establishing new processes to prevent future unauthorized disclosure of Form 990-T data. The IRS implemented a new posting process and modified its contract to ensure that Form 990-T data are not stored in contractor-owned storage and are timely deleted by the contractor. The IRS also implemented a two-part quality control process. The quality control process involves statistical sampling of Forms 990-T and a review process to verify the returns files are disclosable.

Performance of This Review

We conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Federal Offices of Inspector General*. Those standards require that the work adheres to the professional standards of independence, due professional care, and quality assurance and followed procedures to ensure accuracy of the information presented.

Major contributors to the review were Danny R. Verneuille, Assistant Inspector General for Audit (Security and Information Technology Services); Khafil-Deen Shonekan, Acting Director; Jamillah Hughes, Acting Audit Manager; Mark Carder, Lead Auditor; and Jin Lee, Auditor.

Form 990-T Unauthorized Disclosures Timeline



Source: Treasury Inspector General for Tax Administration discussions with the IRS and review of congressional and IRS documents. FISMA = Federal Information Security Modernization Act.

Management's Response to the Draft Memorandum



DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

September 21, 2023

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Jeffrey J. Tribiano Digitally signed by Jeffrey J. Tribiano
Date: 2023.09.21 13:29:25 -0400
Deputy Commissioner for Operations Support

SUBJECT: Draft Memorandum – Review of Forms 990-T Unauthorized
Disclosures of Taxpayer Information (Review # 202320R23)

Thank you for the opportunity to respond to the above-referenced draft memorandum. We appreciate the TIGTA audit team's engagement with IRS leadership to ensure that the memorandum accurately reflects the facts related to the inadvertent disclosures of 990-T information and the subsequent actions taken by the IRS.

The protection of taxpayer information is a top priority for the IRS, and we strive daily to improve our processes and maintain the public's confidence. In responding to this incident, we acted quickly to identify and resolve the underlying causes of these inadvertent disclosures. As you note in your memorandum, the IRS has instituted new procedures and quality control processes to ensure that similar disclosures will not occur again.

If you have any questions, please contact me or a member of your staff may contact Kathleen Walters, chief privacy officer, at 202-317-4082.

Glossary of Terms

Term	Definition
Business Master File	The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
Exempt Organizations	An IRS function that administers tax law governing charities, private foundations, and other entities exempt from Federal income tax.
Form 990-T	An information return used by tax exempt organizations to report unrelated business income and tax liabilities with the IRS.
Personally Identifiable Information	Information that, either alone or in combination with other information, can be used to uniquely identify an individual. Some examples of PII are name, Social Security Number, date of birth, place of birth, address, and biometric record.
Preparer Tax Identification Number	A nine-digit number issued by the IRS that is required if an individual prepares or assists in preparing tax returns for compensation.
Privacy, Governmental Liaison, and Disclosure Office	Organization responsible for performing a risk assessment to evaluate the risk of harm to taxpayers for all reported IRS breaches, including those resulting from the loss or compromise of PII.
Social Security Number	A nine-digit number issued to an individual by the Social Security Administration. The IRS uses this number to process tax documents and returns.
Staging Area	This extract, transform, and load process is the sequence of applications that extract data sets from the various sources, bring them to a data staging area, apply a sequence of processes to prepare the data for migration into the data warehouse, and actually load them.
Tax Exempt and Government Entities Division	The IRS established the business unit to improve its ability to meet the special needs of pension plans, exempt organizations, and government entities in complying with the tax laws.

Term	Definition
Treasury Inspector General for Tax Administration's Office of Investigations	Its overall mission is to help protect the ability of the IRS to collect revenue for the Federal Government. It conducts investigations and proactive investigative initiatives to ensure the integrity of IRS employees, contractors, and other tax professionals; ensure IRS employee and infrastructure security; and protect the IRS against external attempts to corrupt tax administration.

Abbreviations

IRS	Internal Revenue Service
PII	Personally Identifiable Information
RAAS	Research, Applied Analytics, and Statistics
TEOS	Tax Exempt Organization Search



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

Information you provide is confidential, and you may remain anonymous.