

United States Senate

WASHINGTON, DC 20510

April 9, 2025

Heather M. Hill
Acting Inspector General
Treasury Inspector General for Tax Administration (TIGTA)
901 D Street, SW, Suite 600
Washington, DC 2002

Dear Acting Inspector General Hill:

We write to request an investigation into alarming reports about improper access to tax return information at the Internal Revenue Service (IRS) by the Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security (DHS), Elon Musk's associates at the "Department of Government Efficiency" (DOGE), the Office of Personnel Management (OPM), and others, potentially violating the privacy of every taxpayer. As you know, violations of the tax privacy rules are punishable by civil and criminal penalties, including up to five years in prison.

Following the abrupt departure of the Acting Chief Counsel and Acting IRS Commissioner on April 7, 2025, Treasury Secretary Bessent signed a memorandum of understanding that gives ICE unprecedented access to return information in an apparent attempt to weaponize the tax system against up to seven million people suspected of being undocumented immigrants.¹ The MOU cites Internal Revenue Code section 6103(i)(2), which permits certain limited disclosures for active criminal investigations individually approved by high level officials, but there were only 30,538 disclosures for all such investigations in the U.S. in 2023 and 14,640 in 2022,² raising questions about whether it would be possible for ICE to have a valid reason for obtaining information on up to seven million people.

Immediately following Bessent's execution of the MOU, several IRS leaders announced their resignations, including Acting IRS Commissioner Melanie Krause and Chief Privacy Officer Kathleen Walters, raising further questions about whether they resigned to avoid being a party to a criminal conspiracy to violate tax privacy law.³

DOGE has also sought access to the IRS's most sensitive systems to create a "mega-API," that insiders have said is an "open door controlled by Musk for all American's [sic] most sensitive information with none of the rules that normally secure that data."⁴ This proposed "hackathon"

1 Centro de Trabajadores Unidos, et al., Plaintiffs, v. Scott Bessent, Civil Action No. 25-677 (Exhibit A: IRS/DHS MOU) (March 31, 2025) (on file); Jacob Bogage, et. al., DHS officials ask IRS to use tax data to locate up to 7 million immigrants, Washington Post (Apr. 5, 2025), <https://www.washingtonpost.com/business/2025/04/05/irs-tax-data-immigration-enforcement/>; Jacob Bogage, DHS asks IRS for addresses of people believed to be in U.S. illegally, Washington Post (Feb. 28, 2025), <https://www.washingtonpost.com/business/2025/02/28/immigration-enforcement-trump-administration-irs/>;

2 Joint Committee on Taxation (JCT), JCX-14-24 (April 25, 2024), <https://www.jct.gov/publications/2024/jcx-14-24/>; and JCT, JCX-6-23 (April 18, 2023), <https://www.jct.gov/publications/2023/jcx-6-23/>;

3 Richard Rubin, Acting IRS Chief to Depart, Extending Turmoil at Agency, Wall Street Journal (Apr. 8, 2025), <https://www.wsj.com/politics/policy/irs-chief-quits-melanie-krause-c1653475>

4 Jacob Bogage and Jeff Stein, DOGE presses to check federal benefits payments against IRS tax records, Washington Post (Mar. 1, 2025), <https://www.washingtonpost.com/business/2025/03/01/doge-irs-tax-records-benefits/>; Makena Kelly, DOGE Is Planning a Hackathon at the IRS.

by Musk and third parties could result in the exporting of taxpayer data to private entities and compromise the privacy of millions of Americans. DOGE has also requested an “omnibus” agreement with federal agencies that would allow a broad swath of federal officials to cross-reference benefits rolls with taxpayer data.⁵

Finally, Treasury and IRS are requiring IRS employees, including employees in service centers who do not have a government-issued computer, to send emails listing five things they did each week to an external email address at OPM *without any pre-screening* to ensure no return information is included.⁶ Agencies are permitted to opt out of this requirement, but the IRS has not.

The risks created by these activities cannot be overstated. The data in IRS systems cannot necessarily be relied upon for non-tax purposes. The IRS suspends the processing of millions of returns each year and flags millions of others for follow-up because the information in its files does not match what is on the taxpayer’s return.⁷ The data can be inaccurate because of identity theft, keypunch errors, obsolete address information, and a wide range of other reasons. If DHS relies on the same data to deport millions of people without validating its accuracy, it is likely to end up making grave errors that impact American citizens and immigrants with valid legal status.⁸

Moreover, taxpayer data held by the IRS is, by design, subject to some of the strongest privacy protections under federal law, the violation of which can trigger civil and criminal sanctions, including up to five years in prison.⁹ Congress passed these protections in the 1970s after President Nixon weaponized the IRS against his political enemies.¹⁰ These legal protections for taxpayer data apply to all taxpayers and are an essential foundation for our tax system, which requires the voluntary submission of information to the government.¹¹ Voluntary tax compliance depends on taxpayers having faith that their confidential information will not be used for anything other than tax administration. Otherwise, those who value their privacy are less likely to file and pay what they owe.

There are already projections that taxpayers are paying \$500 billion less in taxes this year, which could be explained, in part, by a lack of confidence that their tax return information will

It Wants Easier Access to Taxpayer Data, *Wired* (Apr. 5, 2025), <https://www.wired.com/story/doge-hackathon-irs-data-palantir/>; Howard Gleckman, How DOGE’s Access To IRS Data Puts Taxpayer Information at Risk, *Tax Policy Center* (Feb. 20, 2025), <https://taxpolicycenter.org/taxvox/how-doges-access-irs-data-puts-taxpayer-information-risk>

5 Jacob Bogage, et. al., What in the DOGE is happening at the IRS? (Mar. 3, 2025), <https://www.washingtonpost.com/politics/2025/03/03/what-doge-is-happening-irs/>

6 Will Steakin, Tech issues hit DOGE’s ‘5 things’ email requirement for federal employees, *Yahoo News* (Mar. 26, 2025), <https://news.yahoo.com/tech-issues-hit-doges-5-205159500.html>

7 National Taxpayer Advocate, 2024 Annual Report to Congress, Ongoing Processing Delays Burden and Frustrate Taxpayers Awaiting Refunds and Other Account Actions (Jan. 2024), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP.pdf

8 Ben Finley, An ‘administrative error’ sent a Maryland man to an El Salvador prison, ICE says, *AP* (Apr. 1, 2025), <https://apnews.com/article/el-salvador-deportation-maryland-man-trump-error-818a0fa1218de714448edcb5be1f7347>; Dahlia Mignouna, et. al., IRS-DHS Agreement to Share Taxpayer Information Would Create Significant Risks to All Taxpayers, *The Tax Law Center* (Apr. 4, 2025), <https://taxlawcenter.org/blog/irs-dhs-agreement-to-share-taxpayer-information-would-create-significant-risks-to-all-taxpayers>

9 IRC secs. 6103, 7213, and 7213A.

10 Report of the Committee on Finance on H.R. 10612, Tax Reform Act of 1976, S. Rep. 94-938, June 10, 1976 at p. 315.

11 Taxpayer privacy has always been a bipartisan priority. For example, Rep. Smith, the Republican Chairmen of the House Ways and Means Committee was extremely critical of the IRS after a contractor disclosed billionaires’ tax information to the press and asked for you to report on the lapses. See TIGTA, Assessment of Processes to Grant Access to Sensitive Systems and to Safeguard Federal Tax Information, Rept. No. 2024-IE-R008 (Feb. 6, 2024), <https://www.tigta.gov/sites/default/files/reports/2024-02/2024ier008fr.pdf>. Subsequently, the Taxpayer Data Protection Act (H.R. 8292), which increased penalties for unauthorized disclosures passed the House with bipartisan support. See H. Rept. 118-570, 118th Cong. 2nd Sess. (2024), <https://www.congress.gov/congressional-report/118th-congress/house-report/570/>

be kept confidential.¹² Experts estimate that this MOU could reduce revenue by \$25 billion in 2026 and \$313 billion over a ten-year period.¹³ If that trend continues, it will undermine the finances of Medicare and Social Security, which the Trump Administration is already dismantling and Elon Musk has said is a Ponzi scheme.¹⁴

While there are procedures by which agencies can gain access to return information, they generally require a determination that the information is required in a specific case for a lawful purpose.¹⁵ IRS employees may not access such information without proper training, and the information cannot be transmitted to another party without proper safeguards.¹⁶ The administration has thus far failed to timely respond to a congressional request on March 14, 2025, for information about the legal basis for the spate of recent requests for access to return data.

1. Concerning DHS's request for return information about ITIN holders, please provide:
 - a. A complete unredacted copy of the MOU and any related agreements (including the separate implementation agreement referenced in the redacted MOU);
 - b. Any documented concerns raised by any senior IRS officials;
 - c. Any statements received describing the intended use of the information;
 - d. Any parties, officers, or agencies to whom the requester intended to redisclose any or all of the information; and
 - e. The legal basis for authorizing disclosures under this MOU; and
 - f. The extent to which such disclosures would be unprecedented.
2. Please provide any other requests for access to taxpayer or other sensitive information the IRS received from any agency in the executive branch (including DHS, SSA, DOGE, and the Office of Personnel Management) during this administration for return or other sensitive information or access to IRS systems containing such information, which was not subject to judicial review or routinely granted during the last administration.
3. Please also provide any requests for taxpayer or other protected information received from the President or the Executive Office of the President (EOP) during this

12 Daniel de Visé, Trump and DOGE want to shrink the IRS. That may cost billions of tax dollars. USA TODAY (Apr. 4, 2025), <https://www.usatoday.com/story/money/2025/04/02/trump-doge-irs-layoffs-tax-audits-budget/82754087007/>

13 Yale Budget Lab, The Potential Impact of IRS-ICE Data Sharing on Tax Compliance (April 8, 2025), <https://budgetlab.yale.edu/research/potential-impact-irs-ice-data-sharing-tax-compliance>

14 Chris Megerian, Musk eyes Social Security and benefit programs for cuts while claiming widespread fraud, AP (Mar. 10, 2025), <https://apnews.com/article/elon-musk-donald-trump-doge-b21b74f56f30012a6450a629e7232a1a>

15 IRS Office of Chief Counsel, Disclosure & Privacy Law Reference Guide, Pub. 4639 (Rev. Oct. 2012), <https://www.irs.gov/pub/irs-pdf/p4639.pdf>

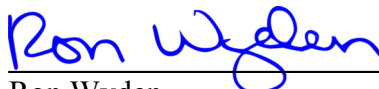
16 IRS, Tax Information Security Guidelines For Federal, State and Local Agencies, Publication 1075 (), <https://www.irs.gov/pub/irs-pdf/p1075.pdf>; Government Accountability Office, Security of Taxpayer Information: IRS Needs to Address Critical Safeguard Weaknesses, GAO-23-105395 (Aug 14, 2023), <https://www.gao.gov/assets/gao-23-105395.pdf>; IRS, Internal Revenue Manual 10.5.5 IRS Unauthorized Access, Attempted Access or Inspection of Taxpayer Records (UNAX) Program Policy, Guidance, and Requirements (Mar. 8, 2020), https://www.irs.gov/irm/part10/irm_10-005-005

administration, including the Office of Management and Budget, DOGE, and Elon Musk.

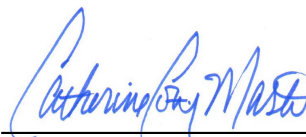
4. In each instance described in #2 or #3, please explain how the requestor proposed to use the information requested, the IRS's response to the request, and the legal basis for the IRS's response.
5. Every month until the end of this administration, please provide a copy of any new request that would fall into any of these categories and the IRS's response.
6. Please also provide a list of all non-IRS employee(s) currently detailed to, or working with, the IRS as part of DOGE or its affiliates and provide a copy of the Memorandum of Understanding(s) allowing them to do so.
7. Every month until the end of this administration, provide an update on any modifications to any of the agreements referenced above to share return information.
8. Please provide an analysis of the risk that the "5-things" emails IRS employees are required to send to OPM contain information protected by section 6103 or protected by other provisions (*e.g.*, the Privacy Act).
9. Please provide an estimate of the number of 6103 or other statutory violations the management of the IRS and Treasury are allowing to occur by requiring 5-things emails to OPM.
10. Please provide information about the nature and scope of the "mega API" and "hackathon" activity, which was reported in the press, including what sensitive data the vendor has access to, how the contract for services was negotiated, and whether there were any violations of federal contracting regulations.
11. Please provide an estimate of the percentage of individuals who have been given access to return or other sensitive information for the first time during this administration without first completing all of the training that IRS employees are required to take before having such access. Please provide a list of their titles.
12. To the extent new individuals or agencies have been granted access to return or other sensitive information during this administration, please estimate the percentage who did not properly secure and safeguard such information as required. Please provide a list of any agencies and the titles of any individuals.
13. To the extent that improper access or disclosures of return or other sensitive information have occurred during this administration, please describe the circumstances of the disclosure, provide an estimate of the number of taxpayers affected, and whether they have been notified that their information has been improperly accessed or disclosed.

Please provide us with this information as soon as it is available, provide us with a briefing by May 8, 2025, and complete this work by September 30, 2025.

Sincerely,



Ron Wyden
United States Senator
Ranking Member, Committee
on Finance



Catherine Cortez Masto
United States Senator



Elizabeth Warren
United States Senator



Alex Padilla
United States Senator



Tammy Duckworth
United States Senator



Andy Kim
United States Senator



Peter Welch
United States Senator



Chris Van Hollen
United States Senator



Martin Heinrich
United States Senator



Richard Blumenthal
United States Senator



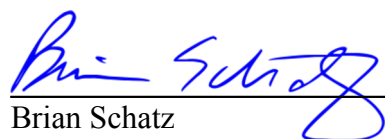
Sheldon Whitehouse
United States Senator



Jeffrey A. Merkley
United States Senator



Richard J. Durbin
United States Senator



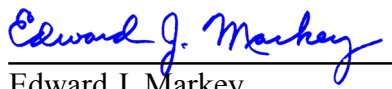
Brian Schatz
United States Senator



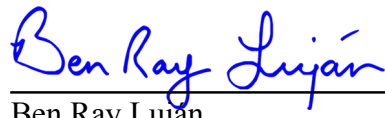
Cory A. Booker
United States Senator



Bernard Sanders
United States Senator



Edward J. Markey
United States Senator



Ben Ray Lujan
United States Senator

CC:

The Honorable Scott Bessent
Secretary
U.S. Department of Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Andrew De Mello
Acting IRS Chief Counsel, Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224