

Congress of the United States
Washington, DC 20515

August 25, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service

Dear Commissioner Werfel:

A recent Treasury Inspector General for Tax Administration (TIGTA) report found that significant deficiencies exist in the Internal Revenue Service's (IRS) safeguarding, storing, and accounting of storage backups of taxpayer information.¹ According to the report, the IRS is required to create backups and store business and individual tax records to ensure these records are available to adequately document IRS activities.² The IRS stores these backup tax records on microfilm cartridges and warehouses the cartridges in Tax Processing Centers across the country.³

Each of these backup cartridges can hold up to 2,000 photographic images of the information contained in tax records.⁴ Agency guidelines require the IRS to include the taxpayer's name, Social Security number, Employer Identification Number, and tax account and return information in the backup records.⁵ Backup records for businesses are destroyed after 75 years and individual tax returns are destroyed after 30 years.⁶

According to the report, TIGTA found that the IRS had significant shortcomings and a lack of adequate inventory controls over the physical storage and safeguarding of these backup cartridges.⁷ As a result, the IRS lost track of millions of individual and business tax records stored in thousands of backup cartridges.⁸ TIGTA also reported that the IRS was unable to locate any of the fiscal year (FY) 2010 backup records that should have been sent from a Tax

¹ Treasury Inspector General for Tax Administration (TIGTA), *Sensitive Business and Individual Tax Account Information Stored on Microfilm Cannot Be Located*, at 1 (Aug. 8, 2023)
<https://www.tigta.gov/sites/default/files/reports/2023-08/2023ier008fr.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.* at 1.

⁶ *Id.*

⁷ *Id.*

⁸ Benjamin Guggenheim, *IRS unable to locate millions of tax records, watchdog says*, Politico (Aug. 10, 2023)
<https://www.politico.com/news/2023/08/10/watchdog-irs-tax-records-00110637>.

Processing Center in Fresno, California to Kansas City, Missouri.⁹ In addition, the IRS could not account for 4,500 backup cartridges from FY 2019 containing individual taxpayer information and 4,000 backup cartridges from FY 2018 containing business tax records.¹⁰ This means the IRS cannot account for possibly 17 million tax records between FY 2018 and FY 2019 alone.¹¹

Moreover, during an onsite visit to an IRS Tax Processing Center, TIGTA observed multiple empty boxes that were intended to store up to 168 backup cartridges with hand written notes stating “sent for reformat 4-11-2013.”¹² IRS personnel, however, had no idea where these backup cartridges were located because the microfilm contractor that would have received the backup units went out of business in 2018.¹³ TIGTA also uncovered that IRS management failed to conduct required annual inventories of the backup records and could not even remember the last time an annual inventory was performed.¹⁴

In addition to losing millions of taxpayer records, TIGTA reported that IRS failed to adequately safeguard taxpayer information.¹⁵ TIGTA discovered that 15 large pallets containing sensitive taxpayer backup records that should have been sent to the Federal Records Center have been sitting in the IRS’s distribution center since 2018.¹⁶ Further, TIGTA discovered that in some IRS Tax Processing Centers the backup storage units can be accessed by all personnel within the facility even though internal IRS guidance requires them to be stored in secure, physically controlled areas.¹⁷ Due to the large volume of sensitive taxpayer information stored on the cartridges, TIGTA noted that the IRS needed to take increased precautions to prevent unauthorized access to the information.¹⁸ TIGTA also stated the IRS should restrict access to only those employees responsible for working with the backup cartridges.¹⁹

In response to the TIGTA report, IRS Commissioner of the Wage and Investment Division, Kenneth C. Corbin, stated that the IRS had redirected their resources to “higher-ranking priorities” rather than maintaining control over “lower-risk programs” such as protecting sensitive taxpayer records.²⁰ IRS Commissioner Corbin also disagreed with TIGTA’s recommendations #7 (that the IRS should “properly secure microfilm cartridges stored at its

⁹ TIGTA *supra* note 1 at 3.

¹⁰ *Id.* at 7; Julia Shapero, *IRS can’t find millions of sensitive tax records: watchdog*, The Hill (Aug. 10, 2023) <https://thehill.com/business/4147630-irs-cant-find-millions-of-sensitive-tax-records-watchdog/>.

¹¹ David Zimmermann, *Treasury inspector general says IRS loses millions of sensitive tax records*, Washington Examiner (Aug. 10, 2023) <https://www.washingtonexaminer.com/news/treasury-inspector-general-irs-loses-tax-records>.

¹² TIGTA *supra* note 1 at 6.

¹³ *Id.* at 6.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 3.

¹⁷ *Id.* at 7-8.

¹⁸ *Id.* at 8.

¹⁹ *Id.*

²⁰ *Id.* at 15.

Files Building located at the Ogden Tax Processing Center to limit employee access") and #13 (that the IRS should "assess storage conditions at each Tax Processing Center to ensure that microfilm is properly stored and preserved").²¹ Even though TIGTA found serious deficiencies with the IRS securing and storing the backup cartridges containing sensitive taxpayer information, IRS Commissioner Corbin disagreed with these recommendations on the grounds that the IRS already had sufficient processes in place.²²

The loss of millions of records containing sensitive taxpayer information is unacceptable. The information contained in these backup records can be used by nefarious actors to commit tax fraud and identity theft.²³ The IRS's lackadaisical attitude towards the loss of millions of taxpayer records containing Social Security numbers, addresses, and other sensitive tax return information is appalling. The American people deserve better. They deserve an IRS that prioritizes protecting their confidential information and takes the necessary action to safeguard their confidential records. Moreover, the need to have improved safeguards and oversight over hundreds of millions of taxpayer records is further highlighted by the fact that the media organization ProPublica obtained a massive trove of tax return information in June 2021, some of which has been published through a series of articles.²⁴ There must be accountability to prevent this type of misconduct from occurring in the future.

So that Congress may conduct objective and independent oversight concerning the IRS protecting sensitive taxpayer records and information, please provide answers to the following no later than September 8, 2023.

1. Has the IRS taken any steps to locate the missing backup cartridges and investigate the circumstances surrounding their disappearance? If so, please explain in detail. If not, why not?
2. With regards to the contractor that went out of business in 2018 referenced in the TIGTA report:
 - a. After going out of business, what actions did the IRS take to recover and secure all taxpayer records in the contractor's possession?
 - b. How many backup cartridges are unaccounted for that were last in the possession of the contractor?
3. Do you agree with the IRS Commissioner of the Wage and Investment Division that securing confidential taxpayer records is a low priority for the IRS? Do you

²¹ *Id.* at 8, 11.

²² *Id.* at 8, 11.

²³ *Id.* at 3.

²⁴ Casey Harper, *IRS leaked thousands of Americans' tax filings; Congress demands answers*, Washington Examiner (Feb. 20, 2023) <https://www.washingtonexaminer.com/news/irs-leaked-thousands-of-americans-tax-filings-congress-demands-answers>.

also agree with IRS Commissioner Corbin that the IRS should not implement TIGTA recommendations #7 and #13? Please explain.

4. What new processes has the IRS implemented to ensure the loss of these types of backup taxpayer records will not occur in the future? Please explain.
5. Has the IRS notified individual taxpayers and businesses that sensitive information in their tax records could have been compromised? If so, how were these taxpayers notified, and when were they notified? If not, why not?
6. What corrective actions were taken to hold the IRS employees accountable for losing the backup cartridges from FY 2010, FY 2018, and FY 2019? Please explain. If no corrective actions were taken, please explain why not.

Thank you for your prompt review and responses. If you have any questions, please contact our Committee staff.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget



Jason Smith
Chairman
Committee on Ways and Means