



DEPARTMENT OF THE TREASURY
Internal Revenue Service

Privacy Act of 1974, as amended

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed New Privacy Act System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service, gives notice of a proposed new system of records entitled "Treasury/IRS 37.111 - Preparer Tax Identification Number Records."

DATES: Comments must be received no later than [30 days after publication in the Federal Register]. This new system of records will be effective [35 days after publication in the Federal Register] unless the IRS receives comments that would result in a contrary determination.

ADDRESSES: Comments should be sent to the Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224. Comments will be available for inspection and copying in the Freedom of Information Reading Room (Room 1621), at the above address. The telephone number for the Reading Room is (202) 622-5164 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: David R. Williams, Director, Return Preparer Office, 1111 Constitution Ave., NW, Washington, DC, 20224. Phone: (202) 927-6428 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Return Preparer Review initiative represents a big step toward meeting the IRS strategic plan goals of increasing taxpayer compliance and ensuring uniform and high ethical standards of conduct for paid tax return preparers. The major components of the program include requiring paid tax return preparers to register with the IRS and obtain a preparer tax identification number (PTIN), requiring competency measurements (by testing or through other professional licensing) for paid tax return preparers, requiring continuing professional education for paid tax return preparers, extending the ethical rules found in Treasury Department Circular 230 to all paid tax return preparers, assessing the quality of return preparation and performing tax compliance checks and suitability checks on paid tax return preparers, and developing a publicly accessible and searchable database of paid tax return preparers who have registered and been issued a PTIN.

The proposed system will maintain administrative records pertaining to the issuance of PTINs to registered paid tax return preparers. This registration program will allow the IRS to better serve the public by requiring paid tax return preparers to register with the IRS, and to obtain and regularly renew their preparer tax identification number (PTIN). Paid tax

return preparers may be subject to suitability checks, including background, fingerprint, and tax compliance checks, and to ethics and other regulatory rules; may be required to take competency tests; and may need to secure continuing education credits. IRS intends to notify the public of who is registered, and may provide to the public information sufficient to advise the public if a preparer is removed from the program. The IRS will also maintain information about individual providers of continuing education for paid tax return preparers, and intends to make certain information about these providers available to the public to assist return preparers in locating appropriate continuing education opportunities and to enable taxpayers to know the subject matter of courses a paid tax return preparer may have taken.

A proposed rule exempting the proposed system of records from certain provisions of the Privacy Act will be published separately in the *Federal Register*.

One provision of the Act, 5 U.S.C. 552a(d)(5), allows an agency to exempt qualifying material and is frequently overlooked by the public until it is invoked by an agency. The Internal Revenue Service is providing notice of its authority to assert the exemption granted by subsection (d)(5) to any record maintained in any of its systems of records when appropriate to do so. 5 U.S.C. 552a(d)(5) states that “nothing in this [Act] shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.” This subsection permits an agency to withhold a record from the access provisions of the Privacy Act and reflects Congress’s intent to exclude civil litigation files which includes quasi-judicial administrative hearings from access under subsection (d)(1). Unlike the other Privacy Act exemptions (see 5 U.S.C. 552a(j)(2) and (k)), subsection (d)(5) is entirely “self-executing,” and as such it does not require an implementing regulation in order to be effective.

As required by 5 U.S.C. 552a(r), a report of a new system of records has been provided to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

The system of records entitled “Treasury/IRS 37.111 -Preparer Tax Identification Number Records” is published in its entirety below.

Dated: October 24, 2011.

Melissa Hartman.

Deputy Assistant Secretary for Privacy, Transparency, and Records.

Treasury/IRS 37.111

SYSTEM NAME:

Preparer Tax Identification Number Records

SYSTEM LOCATION:

National Office, Field Offices, Campuses, and Computing Centers. (See IRS Appendix A for addresses of IRS offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for a PTIN; registered paid tax return preparers (individuals issued a PTIN); individuals whose application or registration is rejected, revoked, or suspended. Individual providers of continuing education for paid tax return preparers, including applicants for IRS approval, approved providers, and former providers. Individual contractors who assist the IRS in reviewing continuing education provider applications. Individuals who communicate with the IRS regarding the paid tax return preparer registration program or about any specific paid tax return preparer or continuing education provider.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records pertaining to paid tax return preparers, including records pertaining to applications for registration, renewal of registration, revocations, suspensions, and appeals; records pertaining to IRS investigation and evaluation of eligibility for registration; records relating to proof of identity for applicants who do not have Social Security Numbers; records related to competency testing, including applications, answer sheets, and test scores; records related to background, fingerprint, and tax compliance checks; records on continuing education requirements to become a registered paid tax return preparer; and information related to testing and education exemptions due to supervised status and types of returns prepared. Records pertaining to individual providers of continuing education for paid tax return preparers, including applications for IRS approval of courses or programs, grants and denials of such applications, and records of participation in offered courses and programs. Records pertaining to individual contractors who assist IRS in reviewing continuing education provider applications. Records pertaining to received communications.

Note: Disciplinary records pertaining to registered paid tax return preparers are maintained in Treasury/IRS 37.007, Practitioner Disciplinary Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7803; 31 U.S.C. 330.

PURPOSE(S):

To administer records pertaining to the issuance of Preparer Tax Identification Numbers (PTINs) to registered paid tax return preparers.

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

Returns and return information may be disclosed only as authorized by 26 USC 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to an arbitrator, mediator, or other neutral, in the context of alternative dispute resolution, to the extent relevant and necessary for resolution of the matters presented, including asserted privileges. Information may also be disclosed to the parties in the alternative dispute resolution proceeding.

(4) Disclose to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(5) Disclose pertinent information to an appropriate Federal, State, local, or tribal agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(6) Disclose information to foreign governments in accordance with international agreements.

(7) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(8) Disclose information to professional organizations or associations with which individuals covered by this system of records may be affiliated, such as state bar and accountancy disciplinary authorities, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

(9) To the extent consistent with the American Bar Association's Model Rules of Professional Conduct, Rule 4.2, disclose to a person the fact that his chosen legal representative may not be authorized to represent him before the IRS.

(10) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(11) Disclose information to a supervised tax return preparer sufficient to identify the supervising tax return preparer, and information to a supervising tax return preparer sufficient to identify the tax return preparers who have named that individual as their supervisor.

- (12) Disclose information to a contractor's financial institution to the extent necessary for the processing of PTIN application and registration fee payments.
- (13) Disclose information to a former employee of the IRS to the extent necessary for personnel-related or other official purposes when the IRS requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
- (14) Disclose information to the public sufficient to identify individuals who have registered with the IRS as a paid tax return preparer and been issued a PTIN, and to advise the public when such an individual is removed from the program.
- (15) Disclose information to the public sufficient to identify individual providers of continuing education for paid tax return preparers, including contact information.
- (16) Disclose information to appropriate agencies, entities, and persons when: (a) The IRS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the IRS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the IRS or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with IRS efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

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

STORAGE:

Paper and electronic media.

RETRIEVABILITY:

Records pertaining to paid tax return preparers may be retrieved by the preparer's Preparer Tax Identification Number (PTIN), name, Taxpayer Identification Number (Social Security Number or Employer Identification Number), or application number. Records pertaining to individual continuing education providers may be retrieved by provider name, Taxpayer Identification Number, application number, or course or program number. Records pertaining to contractors may be retrieved by contractor name or Taxpayer Identification Number, or by contract number. Records pertaining to communications with individuals regarding the paid tax return preparer registration program may be retrieved by the name of the individual or the name or other identifying information of a paid tax return preparer or a continuing education provider identified in the communication. Records may also be retrieved by IRS employee identification number for the employee assigned to the case, project, or determination.

SAFEGUARDS:

Only persons authorized by law will have access to these records. Security standards will not be less than those published in TD P 71-10, Department of the Treasury Security Manual, and IRM 10, Security, Privacy and Assurance.

RETENTION AND DISPOSAL:

Record retention will be established in accordance with the National Archives and Records Administration Regulations Part 1228, Subpart B-Scheduling Records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Return Preparer Office, 1111 Constitution Ave., NW, Washington, DC, 20224. Phone: (202) 927-6428 (not a toll-free number).

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR, Part 1, Appendix B. Written inquiries should be addressed to Director, ETA, Wage and Investment, 1111 Constitution Ave., NW, Washington, DC, 20224. This system of records contains records that are exempt from the notification, access and contest requirements pursuant to 5 U.S.C. 552a(k)(2).

RECORDS ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. With respect to records other than tax records, see "Notification Procedure" above.

RECORDS SOURCE CATEGORIES:

Applicants and registered paid tax return preparers; Treasury and other Federal agency records; state and municipal government agencies; contractors; continuing education providers; witnesses; professional organizations; publicly available records such as real estate records and news media.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Some of the records in this system are exempt from sections (c)(3), (d)(1)-(4), (e)(1), (e)(4)(G)-(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36)

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