

United States Senate

WASHINGTON, DC 20510

June 9, 2021

Mr. Richard K. Delmar
Acting Inspector General
U.S. Department of the Treasury
City Center Building
1401 H Street, NW, Suite 469
Washington, DC 20005

Dear Acting Inspector General Delmar,

We write to request your prompt investigation into the loss of a “vast trove” of taxpayer information provided to the Internal Revenue Service (IRS) that appears to be confidential information that is protected under federal law from disclosure, and for which the inappropriate disclosure of such information is subject to criminal investigation and prosecution. I appreciate your attention to this important matter.

Pro Publica is reporting it “obtained a vast trove of Internal Revenue Service data on the tax returns of thousands of the nation’s wealthiest people, covering more than 15 years.”¹ *Pro Publica* proceeds to state that information it obtained “shows not just their income and taxes, but also their investment, stock trades, gambling winnings, and even the results of audits.”² *Pro Publica* admits on its own accord that such records are confidential in nature.³ *Pro Publica* also openly notes that its use of such information has a political value to current debates in Congress concerning tax reform, but does claim that such confidential information was lawfully obtained.⁴

Federal law⁵ protects tax returns⁶ and return information⁷ as confidential, and also prohibits the unauthorized disclosure of such information. Under law, “disclosure” means the

¹ Jesse Eisinger, Jeff Ernsthansen, and Paul Kiel, “The Secret IRS Files: Trove of Never-Before Seen Records Reveal How the Wealthiest Avoid Income Tax,” *Pro Publica* (June 8, 2021), https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax?utm_medium=social&utm_source=twitter.

² *Ibid.*

³ *Ibid.*, see story excerpt: “The confidential tax records obtained by Pro Publica show that the ultrarich effectively sidestep this system.”

⁴ *Ibid.*, see story excerpt: “The revelations provided by the IRS data come at a crucial moment. Wealth inequality has become one of the defining issues of our age. The president and Congress are considering the most ambitious tax increases in decades on those with high incomes. But the American tax conversation has been dominated by debate over incremental changes, such as whether the top tax rate should be 39.6% rather than 37%.”

⁵ Office of Law Revision Counsel, Title 26 U.S.C. §6103.

[https://uscode.house.gov/view.xhtml?req=\(title:26%20section:6103%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title26-section6103\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:26%20section:6103%20edition:prelim)%20OR%20(granuleid:USC-prelim-title26-section6103)&f=treesort&edition=prelim&num=0&jumpTo=true).

⁶ The term “return” means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed. 26 U.S.C. §6103(b)(1).

⁷ The term “return information” means (A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this

Acting Inspector General Delmar

June 9, 2021

Page 2

“making known to any person in any manner whatever a return or return information.”⁸ Exemptions to this framework are few, narrow, and clearly specified.⁹ Further, federal law specifies that willful unauthorized disclosure of returns or return information by employees granted access to such protected information (be it federal or state employees, a former employee, or contractor employee) is a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.¹⁰

Taxpayers must have the utmost confidence in federal institutions that house their personal and confidential information. Regrettably, American citizens have reason to be distrusting, having witnessed IRS personnel weaponize information in recent years for the purpose of targeting certain tax-exempt organizations for political reasons during the Obama Administration.¹¹ Regrettably, it appears personnel with access to American’s personal and confidential information are again misusing protected information for political reasons. Treasury and the IRS must hold accountable any and all individuals who broke federal law by inappropriately sharing the confidential tax information and tax returns of multiple Americans.

We thank you for your prompt attention to this important matter, and stand ready to provide additional information should you or your team request such feedback or information.

Sincerely,



Mike Braun



Mike Lee

title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, (B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110, (C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and (D) any agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. 26 U.S.C. §6103(b)(2).

⁸ 26 U.S.C. § 6103(b)(8).

⁹ 26 U.S.C. § 6103. See also, Internal Revenue Service, “Disclosure Laws,” [https://www.irs.gov/government-entities/federal-state-local-governments/disclosure-laws#:~:text=IRC%206103\(k\)\(6,is%20not%20otherwise%20reasonably%20available](https://www.irs.gov/government-entities/federal-state-local-governments/disclosure-laws#:~:text=IRC%206103(k)(6,is%20not%20otherwise%20reasonably%20available).

¹⁰ 26 U.S.C. 7213.

¹¹ U.S. House of Representatives Committee on Oversight and Government Reform Darrell Issa (CA-49), Chairman, The Internal Revenue Service’s Targeting of Conservative Tax Exempt Applicants: Report of Findings for the 113th Congress Staff Report 113th Congress December 23, 2014, <https://republicans-oversight.house.gov/wp-content/uploads/2014/12/December-2014-IRS-Report.pdf>.

Acting Inspector General Delmar

June 9, 2021

Page 3



Marsha Blackburn



Ted Cruz



Ron Johnson