

**Letter Report: Documents Containing Official  
Use Only Material Were Available for Public  
Use Without Redaction**

**August 2000**

**Reference Number: 2000-10-110**

**This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

August 8, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Letter Report - Documents Containing Official Use Only  
Material Were Available for Public Use Without Redaction

This report presents the results of our review of the Internal Revenue Service's (IRS) procedures and guidelines for controlling access to Official Use Only (OUO) material. Our objective was to evaluate IRS controls to ensure that OUO material was not available for public use.

In summary, we found OUO material was not redacted from Internal Revenue Manuals (IRM) available for public use in the Freedom of Information (FOI) reading rooms. We identified IRM sections containing OUO material such as tolerance levels; grace periods and due dates; data processing indicators, codes, and instructions; and penalty abatement instructions. The unauthorized disclosure of OUO material could allow taxpayers to alter their filing practices or avoid the payment of taxes. In addition, the release of computer access and data processing codes could jeopardize the IRS' tax administration security.

We recommended that IRS management assign one specific function the responsibility for ensuring IRS procedures and guidelines for designating and controlling access to OUO material are consistently followed. We also recommended that the Office of Governmental Liaison and Disclosure perform a thorough review of all material currently available in FOI reading rooms to ensure that only redacted versions of the IRM and other official documents are available for public use.

Management's response was due on July 10, 2000. As of July 27, 2000, management had not responded to the draft report.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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### Objective and Scope

*The objective of this limited scope review was to evaluate IRS controls to ensure that OOU material was not available for public use.*

The objective of this limited scope review was to evaluate Internal Revenue Service (IRS) controls to ensure that Official Use Only (OUO) material was not available for public use. We reviewed the IRS' procedures and guidelines for controlling access to OUO material to determine whether they are adequate for preventing unauthorized disclosure to the public. Additionally, we visited the IRS Headquarters (HQ) and Regional Freedom of Information (FOI) reading rooms and researched the IRS public web page to determine if OUO material was available to the public.

We conducted limited testing, via judgmental samples of IRS material available for public use, at the IRS HQ in Washington, DC, and in the Atlanta, Dallas, New York, and Oakland regional offices from March through April 2000. Except for the limited testing, this audit was performed in accordance with *Government Auditing Standards*.

Major contributors to this report are listed in Appendix I. Appendix II contains the Report Distribution List.

### Background

The Freedom of Information Act (FOIA) (1988), 5 U.S.C. § 552 (1994 & Supp. II 1996), provides that each agency, in accordance with published rules, shall make available for public inspection and copying:

- Final opinions in the adjudication of cases.
- Statements of policy and administrative staff manuals.
- Instructions to staff that affect a member of the public.

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*The IRM includes materials that are subject to the FOIA definition of “administrative staff manuals and instructions to the staff” and should be made available to the public.*

In addition, the FOIA requires that the IRS make available to the public information which is not prohibited from disclosure by law and regulations, unless its release would significantly impede or nullify IRS actions in carrying out a responsibility or function or would constitute an unwarranted invasion of privacy.

The Internal Revenue Manual (IRM) includes materials that are subject to the FOIA definition of “administrative staff manuals and instructions to the staff” and should be made available to the public. The IRM also includes information that is considered to be for “Official Use Only” and is not to be made available to the public. OOU material can either be issued within the body of the IRM or as a separate Law Enforcement Manual (LEM). When OOU text appears in the body of an IRM, it must be marked with a “#” sign to designate that it is OOU and not made available to the public. Only IRM Parts 3, 12, and 21 are designated to include OOU text within the body of the IRM. All other OOU text is published in a LEM. The LEM is part of the IRS’ internal management document system that complements the IRM and is not subject to the FOIA definition. Therefore, LEM material is not available to the public.

Treasury regulations require that the IRS HQ and Regional Offices provide a public reading room or reading area where FOIA information is available to the public for inspection and copying. The Office of Freedom of Information is responsible for serving as the IRS FOIA administrator and operating the IRS reading rooms. The IRS Electronic Information Services Branch in the Multimedia Production Division also maintains an electronic FOI reading room on the IRS’ public internet site, the *Digital Daily*.<sup>1</sup> This site provides access to the IRM and other FOIA information.

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<sup>1</sup> The IRS public web site can be accessed at the following address: [www.irs.treas.gov](http://www.irs.treas.gov).

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### Results

*When followed, the IRS' procedures and guidelines for designating and controlling access to OOU material are sufficient to prevent unauthorized disclosure to the public.*

We reviewed the IRS' procedures and guidelines for controlling access to OOU material, searched the IRS public web page, and visited the HQ and Regional FOI reading rooms to determine if any OOU material was available to the public. When followed, the IRS' procedures and guidelines for designating and controlling access to OOU material are sufficient to prevent unauthorized disclosure to the public.

The LEM is not available in electronic form and can be obtained only in printed versions. The *Digital Daily* web site contains both a graphic and text version of all sections of the IRM except Parts 3 and 21 (Returns Processing and Customer Service, respectively). A redacted version of *ADP and IDRS Information* (Document 6209)<sup>2</sup> was also accessible through the web page. We were not able to access any OOU material through the internet.

*OOU material was identified in the HQ and Dallas reading rooms.*

However, OOU material was found in documents that were available for public inspection in two of the five sites we visited. The HQ FOI reading room contained two versions of the IRM, an outdated version and a current version that is in the process of being revised. Our visual inspection of a limited, judgmentally selected portion of the older IRM did not identify any OOU material. However, our inspection did identify sections of the current IRM that contained OOU material. Further, we identified OOU material accessible by the public in the Dallas reading room.

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<sup>2</sup> This document contains data processing instructions and information about the Integrated Data Retrieval System (IDRS), such as transaction codes, command codes, and tolerance levels and requires maximum safeguards.

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**Official Use Only Material Was Not Redacted from Internal Revenue Manuals Available for Public Use in the Freedom of Information Reading Rooms**

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*We identified IRM sections containing OOU material such as tolerance levels; grace periods and due dates; data processing indicators, codes, and instructions; and penalty abatement instructions.*

Our visual inspection of a judgmentally selected sample of current IRM sections in the HQ FOI reading room identified 44 pages of IRM material that contained OOU material, such as tolerance levels; grace periods and due dates; data processing indicators, codes, and instructions; and, penalty abatement instructions. We discussed our results with the Acting Director, Office of Freedom of Information, and provided copies of the IRM pages we identified.

In the Dallas reading room, we identified an outdated version (6/19/87) of IRM 5480 - Substitute for Return Program Handbook that contained tolerance levels and other sensitive information. The distribution for this document specifically stated, “excluding FOI reading room and outside IRS.” We discussed this issue with the responsible regional official, who immediately corrected the situation by having the document destroyed.

*It is the originating division’s responsibility to determine what material is to be marked OOU and to inform the Multimedia Production Division to prepare a redacted version for public use.*

The IRS Disclosure of Official Information Handbook<sup>3</sup> provides guidance for classifying documents. Specifically, any IRS materials that have been printed and distributed may be assumed to be intended for public release if they have not been classified “Official Use Only.” Further, for certain documents and memoranda, such as data processing instructions, it is impossible to segregate classified and public portions into separate publications because the content must be presented and followed by employees in a step-by-step fashion. In these instances, each line to be protected will have the symbol “#” shown to the right of the line. All pages must carry the designation, “Any line marked

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<sup>3</sup> IRM [1.3] Chapter 12 - Classification of Documents, Section 4 - Guidelines for Classification.

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with a ‘#’ is for Official Use Only.” It is the originating division’s responsibility to determine what material is to be marked OOU and to inform the Multimedia Production Division to prepare a redacted version for public use.

The OOU designation is used to protect information, such as enforcement tactics and tolerances that could hinder tax administration and the law enforcement process if they were released to the public. The unauthorized disclosure of OOU material could allow taxpayers to alter their filing practices or avoid the payment of taxes. In addition, the release of computer access and data processing codes could jeopardize the IRS’ tax administration security.

IRM guidelines and procedures for controlling access to OOU material were not consistently followed. Each originating division is responsible for ensuring the IRM copies it provides to the FOI reading room are free of sensitive information. The FOI reading room staff should also review the information to ensure it is “clean” prior to placing it on the shelves for public access. However, the HQ FOI reading room staff has been backlogged with filing, and the IRM was not always reviewed before it was placed on the shelves for public inspection. Further, various originating divisions are in the process of updating their IRM sections. These divisions frequently remove the IRM section to be updated and then return the updated section directly to the HQ FOI reading room shelves without review by the HQ FOI reading room staff. The Dallas reading room situation was created due to an oversight by the reading room staff and was immediately corrected when brought to management’s attention.

### Recommendations

1. To provide accountability, the Deputy Commissioner Operations should assign one specific function the responsibility for ensuring IRS procedures and guidelines for designating and



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controlling access to OOU material are consistently followed. All IRM and official documents that are available for public inspection under the provisions of the FOIA should be reviewed by this centralized function prior to public release.

2. The Office of Governmental Liaison and Disclosure should perform a thorough review of all material currently available in FOI reading rooms to ensure that only redacted versions of the IRM and other official documents are available for public use.

Management's Response: Management's response was due on July 10, 2000. As of July 27, 2000, management had not responded to the draft report.

### Conclusion

Our limited review of material in the IRS FOI reading rooms identified OOU material that was not redacted from documents available for public use. The unauthorized disclosure of OOU material, such as enforcement tactics and tolerances, could significantly impede or nullify IRS actions in carrying out tax administration and law enforcement responsibilities.

**Major Contributors to This Report**

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

John Wright, Director

Thomas Brunetto, Audit Manager

Annamarie Ugoletti, Senior Auditor

Yolanda Betancourt, Auditor

Catherine Cloudt, Auditor

Steve Holmes, Auditor

Richard Loudon, Auditor

Rosemarie Maribello, Auditor

Joanola Rose, Auditor

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**Appendix II**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
Chief Operations Officer OP  
Assistant Commissioner (Examination) OP:EX  
Assistant Commissioner (Forms and Submission Processing) OP:FS  
National Director, Governmental Liaison and Disclosure OP:EX:GLD  
National Director, Multimedia Production OP:FS:M  
National Taxpayer Advocate C:TA  
Office of the Chief Counsel CC  
Office of Management Controls CFO:A:M  
Director, Office of Freedom of Information OP:EX:GLD:F  
Director, Office of Program Evaluation and Risk Analysis M:O  
Director for Legislative Affairs CL:LA  
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