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DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

RIN 1505-AC32

Privacy Act; Implementation

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule; technical amendments.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury is revising this part by amending Subpart C to reflect changes affecting the Department's organization since January 2003.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Privacy Act Officer, Department of the Treasury, at 202-622-0874, or by email at Privacy@Treasury.gov.

SUPPLEMENTARY INFORMATION: The Department is amending this part to reflect the transition, in 2003, of the United States Customs Service, the Federal Law Enforcement Training Center, and United States Secret Service from the Department of the Treasury to the Department of Homeland Security. In addition, the amendments reflect the 2003 transfer of certain functions of the Bureau of Alcohol, Tobacco and Firearms (ATF) to the Department of Justice, and the remaining functions reorganized as the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury. The amendment conforms 31 CFR 1.36 to the changes made to the organization of the Department as set out in Treasury Order 101-05 "Reporting Relationships and Supervision of Officials, Offices and Bureaus, and Delegation of Certain Authority in the Department of the Treasury," dated January 10, 2011.

The Privacy Act authorizes the head of the agency to promulgate rules in accordance with the Administrative Procedure Act to exempt Privacy Act systems of records from certain provisions of the Privacy Act, if the system of records contains records that fall within 5 U.S.C. 552a(j) and/or (k).

No new systems of records are being exempted pursuant to this rule nor is any new exemption being added to any systems of records. The rule will update the regulations to reflect changes to the number or title of a system of records and by removing references to systems of records that have been deleted from the Department's inventory of systems of records.

For the reasons described above, this part is being amended to remove the headings, tables, and content pertaining to the following former Treasury bureaus: the U.S. Customs Service, the Federal Law Enforcement Training Center, and the U. S. Secret Service which are being deleted throughout Section 1.36.

The document also amends this part by removing sections (i) and (j) which identified the system of records and the reasons for exempting the system of records under 5 USC 552a(k)(3). The system of records was maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18. Any references to protective investigative records found in sections (c), (d) and (g) of this part have also been removed. These functions are performed by the U.S. Secret Service and were transferred to the Department of Homeland Security in 2003. The remaining sections have been re-designated.

Under provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010) (Dodd-Frank Act) certain powers and authorities of the Office of Thrift Supervision (OTS) were transferred on July 21, 2011, to other banking

agencies, including the Office of the Comptroller of the Currency (OCC) and then abolished. The OCC published a notice on July 26, 2011, at 76 FR 44656 adopting the Privacy Act systems of records formerly maintained by the OTS. These systems of records will be revised, consolidated or deleted by the OCC at a later date. The headings “Office of Thrift Supervision,” the tables and content found at sections (c)(1)(xii), (g)(1)(xii) and (m)(1)(xii) are removed. The OTS systems of records for which an exemption has been previously claimed have been [and as] adopted by the OCC are moved to the tables under the heading “Comptroller of the Currency” any remaining headings and tables are re-designated accordingly. The rule also incorporates the exemptions claimed for the revised and consolidated systems of records maintained by the IRS’ Office of Chief Counsel as published on November 15, 2011, at 76 FR 70640, as well as, the final rule published on January 11, 2012, at 77 FR 1632 regarding records maintained by Treasury’s Office of Civil Rights and Diversity.

These regulations are being published as a final rule because the amendments do not impose any requirements on any member of the public. These amendments are the most efficient means for the Treasury Department to implement its internal requirements for complying with the Privacy Act.

Accordingly, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), the Department of the Treasury finds good cause that prior notice and other public procedures with respect to this rule are unnecessary, and good cause for making this final rule effective on the date of publication in the *Federal Register*.

Pursuant to Executive Order 12866, it has been determined that this final rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612, do not apply.

Date: March 14, 2012.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

PART 1--[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 of subpart C is revised to read as follows:

§1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

(a) *In General.* In accordance with 5 U.S.C. 552a(j) and (k) and §1.23(c), the Department of the Treasury hereby exempts the systems of records identified below from the following provisions of the Privacy Act for the reasons indicated.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(j) and (k) and pursuant to the authority of §1.23(c).

(c) *General exemptions under 5 U.S.C. 552a(j)(2)*. (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the agency or component thereof that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Certain components of the Department of the Treasury have as their principal function activities pertaining to the enforcement of criminal laws. This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Treasury.

(ii) Departmental Offices:

Number	System Name
DO .190	Investigation Data Management System
DO .221	SIGTARP Correspondence Database
DO .222	SIGTARP Investigative MIS Database
DO .223	SIGTARP Investigative Files Database
DO .224	SIGTARP Audit Files Database
DO .303	TIGTA General Correspondence
DO .307	TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files
DO .308	TIGTA Data Extracts
DO .309	TIGTA Chief Counsel Case Files
DO .310	TIGTA Chief Counsel Disclosure Section Records
DO .311	TIGTA Office of Investigations Files

(iii) Alcohol and Tobacco Tax and Trade Bureau.

(iv) Comptroller of the Currency:

Number	System Name
CC .110	Reports of Suspicious Activities
CC .120	Bank Fraud Information System

CC .500	Chief Counsel's Management Information System
CC .510	Litigation Information System
OTS .001	Confidential Individual Information System
OTS .004	Criminal Referral Database

(v) Bureau of Engraving and Printing.

(vi) Financial Management Service.

(vii) Internal Revenue Service:

Number	System Name
IRS 46.002	Case Management and Time Reporting System, Criminal Investigation Division
IRS 46.003	Confidential Informants, Criminal Investigation Division
IRS 46.005	Electronic Surveillance Files, Criminal Investigation Division
IRS 46.009	Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigation Division
IRS 46.015	Relocated Witnesses, Criminal Investigation Division
IRS 46.022	Treasury Enforcement Communications System (TECS)
IRS 46.050	Automated Information Analysis System
IRS 90.001	Chief Counsel Management Information System Records
IRS 90.003	Chief Counsel Litigation and Advice (Criminal) Records
IRS 90.004	Chief Counsel Legal Processing Division Records
IRS 90.005	Chief Counsel Library Records

(viii) U.S. Mint.

(ix) Bureau of the Public Debt.

(x) Financial Crimes Enforcement Network:

Number	System Name
FinCEN .001	FinCEN Database
FinCEN .002	Suspicious Activity Reporting System
FinCEN .003	Bank Secrecy Act Reports System

(2) The Department hereby exempts the systems of records listed in paragraphs (c)(1)(i) through (x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C.

552a(j)(2): 5 U.S.C. 552a(c)(3) and (4), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), (2) and (3), 5 U.S.C. 552a(e)(4)(G), (H), and (I), 5 U.S.C. 552a(e)(5) and (8), 5 U.S.C. 552a(f), and 5 U.S.C. 552a(g).

(d) *Reasons for exemptions under 5 U.S.C. 552a(j)(2).* (1) 5 U.S.C. 552a(e)(4)(G) and (f)(l) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the systems of records would give individuals an opportunity to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair the Department's ability to carry out its mission, since individuals could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in progress;
- (iii) Learn the nature of the investigation;
- (iv) Learn whether they are only suspects or identified as law violators;
- (v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or
- (vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the systems of records would compromise the Department's ability to provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the systems of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

(A) Discovering the facts that would form the basis for their arrest;

(B) Enabling them to destroy or alter evidence of criminal conduct that would form the basis for their arrest; and

(C) Using knowledge that criminal investigators had reason to believe that a crime was about to be committed, to delay the commission of the crime or commit it at a location that might not be under surveillance.

(ii) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informants and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informants might refuse to provide criminal investigators with valuable information unless they believe that their identities will not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair the Department's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers who compiled information regarding the individual's criminal activities and thereby endanger the physical safety of those undercover officers or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the systems of records for the reasons outlined in paragraphs (d)(2)(i) through (iv) of this section, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with the Department and thus would restrict the Department's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that the Department maintains in the systems of records is restricted by law.

(3) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual having access to his or her records, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (d)(2) of this section, these provisions should not apply to the systems of records.

(4) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the ability of law enforcement agencies outside the Department of the Treasury to make effective use of information provided by the Department. Making accountings of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Individuals possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(ii) Moreover, providing accountings to the subjects of investigations would alert them to the fact that the Department has information regarding their criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the Department's information-gathering and analysis systems and permit individuals to take steps to avoid detection or apprehension.

(5) 5 U.S.C. 552(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency if an accounting of the disclosure was made. Since this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to and amendment of records,

for the reasons set out in paragraph (f)(3) of this section, this provision should not apply to the systems of records.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the systems of records could compromise the Department's ability to provide useful information to law enforcement agencies, since revealing sources for the information could:

- (i) Disclose investigative techniques and procedures;
- (ii) Result in threats or reprisals against informants by the subjects of investigations; and
- (iii) Cause informants to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term “maintain,” as defined in 5 U.S.C. 552a(a)(3), includes “collect” and “disseminate.” The application of this provision to the systems of records could impair the Department's ability to collect and disseminate valuable law enforcement information.

(i) In many cases, especially in the early stages of investigation, it may be impossible to immediately determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(ii) Not all violations of law discovered by the Department fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, the

Department will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies, that have jurisdiction over the offenses to which the information relates. Otherwise, the Department might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treasury when that information comes to the Department's attention during the collation and analysis of information in its records.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the systems of records would impair the Department's ability to collate, analyze, and disseminate investigative, intelligence, and enforcement information.

(i) Most information collected about an individual under criminal investigation is obtained from third parties, such as witnesses and informants. It is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities.

(ii) An attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as to avoid apprehension.

(iii) In certain instances, the subject of a criminal investigation may assert his/her constitutional right to remain silent and refuse to supply information to criminal investigators upon request.

(iv) During criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources to verify information already obtained from the subject of a criminal investigation or other sources.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, of the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The systems of records should be exempted from this provision to avoid impairing the Department's ability to collect and collate investigative, intelligence, and enforcement data.

(i) Confidential sources or undercover law enforcement officers often obtain information under circumstances in which it is necessary to keep the true purpose of their actions secret so as not to let the subject of the investigation or his or her associates know that a criminal investigation is in progress.

(ii) If it became known that the undercover officer was assisting in a criminal investigation, that officer's physical safety could be endangered through reprisal, and that officer may not be able to continue working on the investigation.

(iii) Individuals often feel inhibited in talking to a person representing a criminal law enforcement agency but are willing to talk to a confidential source or undercover officer whom they believe are not involved in law enforcement activities.

(iv) Providing a confidential source of information with written evidence that he or she was a source, as required by this provision, could increase the likelihood that the source of information would be subject to retaliation by the subject of the investigation.

(v) Individuals may be contacted during preliminary information gathering, surveys, or compliance projects concerning the administration of the internal revenue laws before any

individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would impede or compromise subsequent investigations.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

(i) Since 5 U.S.C. 552a(a)(3) defines “maintain” to include “collect” and “disseminate,” application of this provision to the systems of records would hinder the initial collection of any information that could not, at the moment of collection, be determined to be accurate, relevant, timely, and complete. Similarly, application of this provision would seriously restrict the Department's ability to disseminate information pertaining to a possible violation of law to law enforcement and regulatory agencies. In collecting information during a criminal investigation, it is often impossible or unfeasible to determine accuracy, relevance, timeliness, or completeness prior to collection of the information. In disseminating information to law enforcement and regulatory agencies, it is often impossible to determine accuracy, relevance, timeliness, or completeness prior to dissemination because the Department may not have the expertise with which to make such determinations.

(ii) Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting results obtained during criminal investigations.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under

compulsory legal process, when such process becomes a matter of public record. The systems of records should be exempted from this provision to avoid revealing investigative techniques and procedures outlined in those records and to prevent revelation of the existence of an ongoing investigation where there is need to keep the existence of the investigation secret.

(12) 5 U.S.C. 552a(g) provides for civil remedies to an individual when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when an agency fails to maintain accurate, relevant, timely, and complete records which are used to make a determination adverse to the individual, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. The systems of records should be exempted from this provision to the extent that the civil remedies may relate to provisions of 5 U.S.C. 552a from which these rules exempt the systems of records, since there should be no civil remedies for failure to comply with provisions from which the Department is exempted. Exemption from this provision will also protect the Department from baseless civil court actions that might hamper its ability to collate, analyze, and disseminate investigative, intelligence, and law enforcement data.

(e) *Specific exemptions under 5 U.S.C. 552a(k)(1)*. (1) Under 5 U.S.C. 552a(k)(1), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act to the extent that the system contains information subject to the provisions of 5 U.S.C. 552(b)(1). This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Departmental Offices:

Number	System Name
DO .120	Records Related to Office of Foreign Assets Control Economic Sanctions

(ii) Financial Crimes Enforcement Network:

Number	System Name
FinCEN .001	FinCEN Database

(2) The Department of the Treasury hereby exempts the systems of records listed in paragraph (e)(1)(i) and (ii) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(f) *Reasons for exemptions under 5 U.S.C. 552a(k)(1)*. The reason for invoking the exemption is to protect material authorized to be kept secret in the interest of national defense or foreign policy pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders.

(g) *Specific exemptions under 5 U.S.C. 552a(k)(2)*. (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is investigatory material compiled for law enforcement purposes and for the purposes of assuring the safety of individuals protected by the Department pursuant to the provisions of 18 U.S.C. 3056. This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Treasury:

Number	System name
Treasury .013	Department of the Treasury Civil Rights Complaints and Compliance Review Files

(ii) Departmental Offices:

Number	System Name
DO .120	Records Related to Office of Foreign Assets Control Economic Sanctions
DO .144	General Counsel Litigation Referral and Reporting System

DO .190	Investigation Data Management System
DO .220	SIGTARP Hotline Database
DO .221	SIGTARP Correspondence Database
DO .222	SIGTARP Investigative MIS Database
DO .223	SIGTARP Investigative Files Database
DO .224	SIGTARP Audit Files Database
DO.225	TARP Fraud Investigation Information System
DO .303	TIGTA General Correspondence
DO .307	TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files
DO .308	TIGTA Data Extracts
DO .309	TIGTA Chief Counsel Case Files
DO .310	TIGTA Chief Counsel Disclosure Section Records
DO .311	TIGTA Office of Investigations Files

(iii) Alcohol and Tobacco Tax and Trade Bureau:

Number	System Name
TTB .001	Regulatory Enforcement Record System

(iv) Comptroller of the Currency:

Number	System Name
CC .100	Enforcement Action Report System
CC .110	Reports of Suspicious Activities
CC .120	Bank Fraud Information System
CC .220	Section 914 Tracking System
CC .500	Chief Counsel's Management Information System
CC .510	Litigation Information System
CC .600	Consumer Complaint Inquiry and Information System
OTS .001	Confidential Individual Information System
OTS .004	Criminal Referral Database

(v) Bureau of Engraving and Printing:

Number	System Name
BEP .021	Investigative files

(vi) Financial Management Service.

(vii) Internal Revenue Service:

Number	System Name
IRS 00.002	Correspondence File-Inquiries about Enforcement Activities
IRS 00.007	Employee Complaint and Allegation Referral Records
IRS 00.334	Third Party Contact Reprisal Records
IRS 22.061	Wage and Information Returns Processing (IRP)
IRS 24.047	Audit Underreporter Case Files
IRS 26.001	Acquired Property Records
IRS 26.006	Form 2209, Courtesy Investigations
IRS 26.012	Offer in Compromise (OIC) Files
IRS 26.013	One-hundred Per Cent Penalty Cases
IRS 26.019	TDA (Taxpayer Delinquent Accounts)
IRS 26.020	TDI (Taxpayer Delinquency Investigations) Files
IRS 26.021	Transferee Files
IRS 34.037	IRS Audit Trail and Security Records System
IRS 37.007	Practitioner Disciplinary Records
IRS 37.009	Enrolled Agents Records
IRS 42.001	Examination Administrative File
IRS 42.002	Excise Compliance Programs
IRS 42.005	Whistleblower Office Records
IRS 42.008	Audit Information Management System (AIMS)
IRS 42.016	Classification and Examination Selection Files
IRS 42.017	International Enforcement Program Files

IRS 42.021	Compliance Programs and Projects Files
IRS 42.031	Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records
IRS 44.001	Appeals Case Files
IRS 46.050	Automated Information Analysis System
IRS 48.001	Disclosure Records
IRS 49.001	Collateral and Information Requests System
IRS 49.002	Component Authority and Index Card Microfilm Retrieval System
IRS 50.222	Tax Exempt Government Entities Case Management Records
IRS 60.000	Employee Protection System Records
IRS 90.001	Chief Counsel Management Information System Records
IRS 90.002	Chief Counsel Litigation and Advice (Civil) Records
IRS 90.004	Chief Counsel Legal Processing Division Records
IRS 90.005	Chief Counsel Library Records

(viii) U.S. Mint:

Number	System Name
Mint .008	Criminal investigation files

(ix) Bureau of the Public Debt:

Number	System Name
BPD.009	U.S. Treasury Securities Fraud Information System

(x) Financial Crimes Enforcement Network:

Number	System Name
FinCEN .001	FinCEN Database
FinCEN .002	Suspicious Activity Reporting System
FinCEN .003	Bank Secrecy Act Reports System

(2) The Department hereby exempts the systems of records listed in paragraphs (g)(1)(i) through (x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C.

552a(k)(2): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(h) *Reasons for exemptions under 5 U.S.C. 552a(k)(2).* (1) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the ability of the Department of the Treasury and of law enforcement agencies outside the Department to make effective use of information maintained by the Department. Making accountings of disclosures available to the subjects of an investigation would alert them to the fact that an agency is conducting an investigation into their illegal activities and could reveal the geographic location of the investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Individuals possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their illegal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for detection or apprehension. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(ii) Providing accountings to the subjects of investigations would alert them to the fact that the Department has information regarding their illegal activities and could inform them of the general nature of that information.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the systems of records would compromise the Department's ability to utilize and provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the systems of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

(A) Discovering the facts that would form the basis for their detection or apprehension;

(B) Enabling them to destroy or alter evidence of illegal conduct that would form the basis for their detection or apprehension, and

(C) Using knowledge that investigators had reason to believe that a violation of law was about to be committed, to delay the commission of the violation or commit it at a location that might not be under surveillance.

(ii) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning non-criminal acts to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informants and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informants might refuse to provide investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair the Department's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers or other persons who compiled information regarding the individual's illegal activities and thereby endanger the physical safety of those undercover officers, persons, or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the systems of records for the reasons outlined in paragraphs (h)(2)(i) through (iv) of this section, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with the Department and thus would restrict the Department's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that the Department may maintain in the systems of records is restricted by law.

(3) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual having access to his or her records, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to records, , these provisions should not apply to the systems of records for the reasons set out in paragraph (h)(2) of this section.

(4) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes

“collect” and “disseminate.” The application of this provision to the system of records could impair the Department's ability to collect, utilize and disseminate valuable law enforcement information.

(i) In many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(ii) Not all violations of law discovered by the Department analysts fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, the Department will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies that have jurisdiction over the offenses to which the information relates. Otherwise, the Department might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treasury when that information comes to the Department's attention during the collation and analysis of information in its records.

(5) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the systems of records would allow individuals to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair the Department's ability to carry out its mission, since individuals could:

(i) Take steps to avoid detection;

(ii) Inform associates that an investigation is in progress;

(iii) Learn the nature of the investigation;

(iv) Learn whether they are only suspects or identified as law violators;

(v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or

(vi) Destroy evidence needed to prove the violation.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the systems of records could compromise the Department's ability to complete or continue investigations or to provide useful information to law enforcement agencies, since revealing sources for the information could:

(i) Disclose investigative techniques and procedures;

(ii) Result in threats or reprisals against informants by the subjects of investigations; and

(iii) Cause informants to refuse to give full information to investigators for fear of having their identities as sources disclosed.

(i) *Specific exemptions under 5 U.S.C. 552a(k)(4).* (1) Under 5 U.S.C. 552a(k)(4), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is required by statute to be maintained and used solely as statistical records. This paragraph applies to the following system of records maintained by the Department, for which exemption is claimed under 5 U.S.C. 552a(k)(4).

Internal Revenue Service:

Number	System Name
IRS 70.001	Statistics of Income-Individual Tax Returns

(2) The Department hereby exempts the system of records listed in paragraph (i)(1) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(4): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(3) The system of records is maintained under section 6108 of the Internal Revenue Code, which provides that “the Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.”

(j) *Reasons for exemptions under 5 U.S.C. 552a(k)(4)*. The reason for exempting the system of records is that disclosure of statistical records (including release of accounting for disclosures) would in most instances be of no benefit to a particular individual since the records do not have a direct effect on a given individual.

(k) *Specific exemptions under 5 U.S.C. 552a(k)(5)*. (1) Under 5 U.S.C. 552a(k)(5), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are

subject to all the requirements of the Privacy Act. This paragraph applies to the following systems of records maintained by the Department or one of its bureaus:

(i) Treasury:

Number	System Name
Treasury .007	Personnel Security System

(ii) Departmental Offices:

Number	System Name
DO .306	TIGTA Recruiting and Placement

(iii) Alcohol and Tobacco Tax and Trade Bureau.

(iv) Comptroller of the Currency.

(v) Bureau of Engraving and Printing.

(vi) Financial Management Service.

(vii) Internal Revenue Service:

Number	System Name
IRS 34.021	Personnel Security Investigations, National Background Investigations Center
IRS 34.022	Automated Background Investigations System (ABIS)
IRS 90.006	Chief Counsel Human Resources and Administrative Records

(viii) U.S. Mint.

(ix) Bureau of the Public Debt.

(x) Financial Crimes Enforcement Network.

(2) The Department hereby exempts the systems of records listed in paragraph (k)(1)(i) through

(x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C.

552a(k)(5): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(l) *Reasons for exemptions under 5 U.S.C. 552a(k)(5)*. (1) The sections of 5 U.S.C. 552a from which the systems of records are exempt include in general those providing for individuals' access to or amendment of records. When such access or amendment would cause the identity of a confidential source to be revealed, it would impair the future ability of the Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. In addition, the systems shall be exempt from 5 U.S.C. 552a(e)(1) which requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The Department believes that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

(2) If any investigatory material contained in the above-named systems becomes involved in criminal or civil matters, exemptions of such material under 5 U.S.C. 552a (j)(2) or (k)(2) is hereby claimed.

(m) *Exemption under 5 U.S.C. 552a(k)(6)*. (1) Under 5 U.S.C. 552a(k)(6), the head of any agency may promulgate rules to exempt any system of records that is testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the

testing or examination process. This paragraph applies to the following system of records maintained by the Department, for which exemption is claimed under 5 U.S.C. 552a(k)(6).

Departmental Officers:

Number	System Name
DO .306	TIGTA Recruiting and Placement Records

(2) The Department hereby exempts the system of records listed in paragraphs (m)(1) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(6): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(n) *Reasons for exemptions under 5 U.S.C. 552a(k)(6).* The reason for exempting the system of records is that disclosure of the material in the system would compromise the objectivity or fairness of the examination process.

(o) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which is also included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

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