DATA FOUNDATION

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in Data Foundation

February 17, 2025

The Honorable Mike Crapo
Chairman, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Senate Committee on Finance
Co-Chair, Joint Committee on Taxation
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jason Smith
Chairman, House Committee on Ways
    and Means
Co-Chair, Joint Committee on Taxation
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member, House Committee on Ways
    and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Rand Paul
Chairman, Senate Committee on Homeland
    Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Gary Peters
Ranking Member, Senate Committee on
    Homeland Security and Gov't Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable James Comer
Chairman, House Committee on Oversight
    and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Gerald Connolly
Ranking Member, House Committee on
    Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

RE: Request for Congressional Oversight of Federal Tax information Access and Protection Under Title 26

Dear Chairmen and Ranking Members:

On behalf of the Data Foundation and our Data Coalition members, I am writing to express our attention to recent public discussions regarding potential access to sensitive federal tax information within the executive branch. Recent press reports indicate that the executive branch Department of Government Efficiency (DOGE) is seeking access to the IRS Integrated Data Retrieval System, which contains detailed financial information about millions of taxpayers, including their tax returns. If accurate, this request would reportedly grant access to political appointees during the height of tax filing season, raising concerns about data protection and

appropriate use. This may understandably also jeopardize the accuracy of reported information due to political concerns in the current discourse of the country.

While the Data Foundation is not currently independently aware of any violations of statutory process or law, the sensitivity of this matter warrants careful consideration and robust, continued congressional oversight. As reported by *Politico* on February 17, 2025, this type of access to sensitive taxpayer information would be atypical, with former Treasury Assistant Secretary for Tax Policy Lily Batchelder noting she was "unaware of any instance of political appointees at Treasury or the IRS having access to this database."[1] Typically political appointees in a variety of roles may be afforded access to de-identified records, but access to identifiable records represents an expansion of traditional access protocols. In many instances for tax records – and data for other programs – even senior program managers may not be provided access to identifiable records due to the important nature of guaranteed privacy protections to the American public.

Federal tax information is uniquely sensitive because it contains comprehensive details about individuals' and businesses' financial lives -- from income and assets to medical expenses and business relationships -- that could enable fraud, theft, or coercion if exposed. Tax returns also contain sensitive personal details like Social Security numbers and family information, while for businesses they contain proprietary operational data that could advantage competitors. This combination of personal and financial vulnerability, together with the need to maintain public trust in our tax administration system, underlies Congress's longstanding commitment to providing special legal protections for tax information.

Tax records containing detailed financial information about individuals and businesses represent some of the most sensitive data maintained by the federal government. The confidentiality of this information is protected by strict statutory requirements under Title 26 of the U.S. Code, which has historically limited access to career civil servants with specific need-to-know responsibilities. The Internal Revenue Manual (IRM) explicitly states that "IDRS users are authorized to access only those accounts required to accomplish their official duties" and prohibits access even to satisfy personal curiosity (IRM 2.9.1.1.5).[2]

Recognizing the sensitivity, Congress authorized specific penalties in law to ensure protections of individual and business tax data. Under the Taxpayer Browsing Protection Act – which passed Congress unanimously – unauthorized browsing is a criminal misdemeanor punishable by automatic termination, fines, and potential imprisonment. These protections exist for good reason – unauthorized disclosure could harm privacy, business competitiveness, and public trust in our tax system. Under Title 26, Section 7213, unauthorized disclosure of tax return information is a felony punishable by up to five years in prison and a fine. Additionally, Section

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[1] Eckert, T., & Messerly, M. (2025, February 17). 'Five alarm warning': Possible DOGE access to private taxpayer data sparks outcry. *Politico*.
[2] Internal Revenue Service. (2024). Internal Revenue Manual (IRM) § 2.9.1.1.5. U.S. Department of the Treasury. Available at: https://www.irs.gov/irm/part2/irm_02-009-001r

7431 provides for civil damages when tax return information is knowingly or negligently disclosed.

In 2017, the U.S. Commission on Evidence-Based Policymaking, where I served as Policy and Research Director, unanimously recommended improving access to tax data for statistical purposes – an idea that has been discussed for over a generation.[3] Statistical uses are apolitical, focused solely on understanding patterns and trends to improve government effectiveness. Statistical information can be used to determine the scope and scale of certain types of transactions at an aggregate level, for example, to determine patterns and validate claims. Even this carefully circumscribed use for statistical activities, with robust privacy protections, has largely not been implemented because of concerns about the need to limit access and ensure robust privacy protections. The rapid expansion of access to political appointees for administrative purposes, therefore, raises legitimate concerns that warrant careful scrutiny and oversight.

The Advisory Committee on Data for Evidence Building, established during the first Trump administration, specifically acknowledged the sensitive nature of federal tax information and recommended maintaining strong protections while enabling appropriate statistical uses. This balanced approach reflects decades of careful consideration about how to protect taxpayer privacy for individuals and businesses while enabling necessary government functions.

The IRM designates the Chief Information Officer as responsible for overseeing all aspects of systems operating the nation's tax infrastructure, with primary stakeholders including major IRS divisions like Large Business and International, and Small Business Self-Employed. This established governance structure provides important context as we consider potential changes to access protocols. The administration has articulated its perspective on these matters. White House Deputy Chief of Staff Stephen Miller stated this week that DOGE's goal is to "restore neutrality, ethics, accountability to the IRS" and ensure that "no dollars are being stolen from the American people" while also committing that data would be protected.[4] These commitments for achieving policy goals must effectively maintain established statutory protections for taxpayer data.

The administration may rightfully and legally be able to determine who is designated as a CIO, but this does not alter the important need to monitor and disclose access to federal tax information. The Data Foundation and our partners in the Data Coalition encourage Congress to ensure effective oversight of any access to tax data – as we always have – particularly regarding:

1. Adherence to statutory requirements under Title 26 for granting and monitoring access
2. Implementation of appropriate technical and procedural safeguards

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[3] U.S. Commission on Evidence-Based Policymaking (CEP). (2017). *The Promise of Evidence Based Policymaking: Final Report of the Commission on Evidence-Based Policymaking*. Washington, D.C.: Government Publishing Office.
[4] Irwin, L. (2025, February 17). Stephen Miller: DOGE will restore 'faith and confidence' in IRS. *The Hill*.

3. Clear documentation of specific business needs justifying access
4. Regular review and verification of continued need for access
5. Audit trails of data access and usage

To support this oversight, we recommend applying the "Five Safes" framework, which was conceptually incorporated into the Foundations for Evidence-Based Policymaking Act of 2018, or Evidence Act (P.L. 115-435), which passed unanimously in the Senate and with overwhelming bipartisan support in the House before President Trump signed into law in 2019.[5] This framework enables evaluation of data access across five key dimensions that are relevant in this moment to ensure access decisions are applied responsibly and dutifully, consistent with law and ethical practice:[6]

- Safe Projects: Is the data use appropriate and ethical?
- Safe People: Are users authorized and properly trained?
- Safe Data: Are appropriate disclosure controls in place?
- Safe Settings: Is the access environment secure?
- Safe Outputs: Are results properly protected?

The framework provides a structured approach for evaluating whether adequate protections exist across all aspects of data access and use, particularly for sensitive data like federal tax records.

This framework was recently reinforced by the National Academy of Sciences' 2024 privacy framework, developed by a panel on which I served.[7] That framework may be especially useful for Congress to review in considering the appropriateness of particular data access and uses through the lens of risks to privacy protections afforded and promised to the American people and businesses.

A core principle identified by the U.S. Commission on Evidence-Based Policymaking was the need for transparency about how the American people's data are being used and who has access.[8] This principle was considered so fundamental that the Evidence Commission's bipartisan, politically-appointed privacy commissioners even called for "radical transparency" in data access and use. This level of transparency is particularly crucial when considering expanded access to sensitive tax information.

The Data Foundation has long advocated for both the protection and responsible use of sensitive government data. While we support evidence-based policymaking that may require

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[5] Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435, (2019).
[6] Turbes, C. (2024). Implementing the vision of the Evidence Act: A risk-based approach to data sharing using the Five Safes model. Data Foundation. https://datafoundation.org/news/evidence-act-hub/56/56-Implementing-the-Vision-of-the-Evidence-Act
[7] National Academies of Sciences, Engineering, and Medicine. (2024). Toward a 21st century national data infrastructure: Managing privacy and confidentiality risks with blended data. The National Academies Press. https://doi.org/10.17226/27335
[8] CEP 2017.

careful use of tax data, such access must occur within proper statutory and procedural bounds with appropriate congressional oversight and transparency to the American people.

The Data Foundation, including our Board members and Data Coalition members, stand ready to provide additional expertise or assistance as your committees examine these important issues. Thank you for your attention to this matter.

Sincerely,

Nick Hart, Ph.D.
President & CEO
Data Foundation

About the Data Foundation

The Data Foundation is a Washington, DC-based, non-profit, non-partisan organization. It is a trusted authority on the use of open, accessible data to fuel a more efficient, effective, and accountable government; spark innovation; and provide insights to the country's most pressing challenges. The Data Foundation conducts research, facilitates collaborative thought leadership, and promotes advocacy programs that advance practical policies for the creation and use of accessible, trustworthy data and evidence. The Data Foundation is recognized by Candid Guidestar with the Platinum Seal of Transparency and by Charity Navigator as a 4-Star non-profit. To learn more, visit www.datafoundation.org. (LEI: 254900I43CTC59RFW495)