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# Watchdog Report: IRS Continues To Rehire Problem Employees

As an employer, would you rehire a former employee guilty of misconduct? Say, someone you caught falsifying official forms, peeking at secured confidential files, or misusing company property? It is hard to see how. Most employers breathe a sigh of relief when such an employee departs. You don't hire them *back*. How about rehiring *hundreds* of such misbehaving workers? Rehiring is for someone you *want* back, *not* someone who was a problem. But the IRS may be different from your average employer. The [IRS continues to rehire former employees with conduct and performance issues](#), according to a newly released report from the Treasury Inspector General for Tax Administration (TIGTA). You can see the full report and the full IRS response [here](#).



From January 1, 2015, through March 31, 2016, the IRS hired nearly 7,500 employees, of which more than 2,000 had been previously employed by the IRS. Given the substantial threat of identity theft and the magnitude of sensitive information that the IRS holds, hiring employees of high integrity is essential to maintaining public trust in tax administration and

safeguarding taxpayer information.

The overall objective of this audit was to follow-up on a recommendation in a prior report to determine whether IRS management updated hiring policies to fully consider past conduct and performance issues prior to hiring former employees. The IRS has not effectively updated or implemented hiring policies to fully consider past IRS conduct and performance issues prior to making a tentative decision to hire former employees, including those who were terminated or separated during an investigation of a substantiated conduct or performance issue.

Although most employees rehired by the IRS do not have prior conduct or performance issues, TIGTA found that more than 200 (approximately 10%) of the more than 2,000 former employees who were rehired between January 2015 and March 2016 were previously terminated from the IRS or separated while under investigation for a substantiated conduct or performance issue. More than 150 of these employees (approximately 75%) were seasonal. Four of the more than 200 employees had been terminated or resigned for willful failure to properly file their Federal tax returns; four separated while under investigation for unauthorized accesses to taxpayer information; and 86 separated while under investigation for absences and leave, workplace disruption, or failure to follow instructions. This includes positions with access to sensitive taxpayer information, such as contact representatives.

The IRS follows specific criteria to disqualify applicants for employment. However, past IRS employment history is not provided to the selecting official for consideration when making a tentative hiring decision. IRS officials stated that it would be cost prohibitive to review prior issues before a hiring decision and tentative offer has been made. However, the IRS was unable to provide documented support for this position. In addition, TIGTA could not verify that the IRS always considered prior issues because reviews are not always documented. TIGTA also found that 27 former employees failed to disclose a prior termination or conviction on their application, as required, and were rehired by the IRS.

Although the IRS may have had a valid basis to rehire some of the more than 200 former employees with prior conduct or performance issues, TIGTA has serious concerns about the IRS's decision to rehire certain employees, such as those who willfully failed to meet their Federal tax responsibilities. TIGTA recommended that the IRS Human Capital Officer provide the selecting official with access to former employee conduct and performance issues, and require that the basis for rehiring employees with prior employment issues be clearly documented. In their response, IRS management agreed in principle with the recommendations and plans to update current practices and policies to ensure that data reflecting prior performance and misconduct is utilized in the hiring process.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*