

**DESCRIPTION OF H.R. 1152,
A BILL TO PROHIBIT OFFICERS AND EMPLOYEES OF THE
INTERNAL REVENUE SERVICE FROM USING PERSONAL EMAIL
ACCOUNTS TO CONDUCT OFFICIAL BUSINESS**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on March 25, 2015

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 1152, a bill to prohibit officers and employees of the Internal Revenue Service from using personal email accounts to conduct official business, on March 25, 2015. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 1152, A Bill to Prohibit Officers and Employees of the Internal Revenue Service from Using Personal E-mail Accounts for Official Business* (JCX-55-15), March 24, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Prohibition of Use of Personal E-mail for Official Government Business

Present Law

Federal executive agencies are required to maintain and preserve Federal records,² whether in paper or electronic form, and protect against unauthorized removal of such records. Policies for the retention and disposal of records must conform to the requirements of the record-management procedures, as implemented by the Archivist of the United States.³ Email accounts are specifically included within the scope of records subject to the record-retention policies.⁴ Each agency is required to provide instruction and guidance to persons conducting business on behalf of the agency, including employees, officers and contractors, and use of personal email accounts for agency business is to be discouraged.⁵

The government-wide record-management requirements are in addition to the obligations to protect the sensitive information for which the IRS is responsible. Tax information is sensitive and confidential.⁶ The Code imposes civil and criminal penalties to protect it from unauthorized use, inspection or disclosure.⁷ As a condition of receiving tax data, outside agencies must establish to the satisfaction of the IRS that they have adequate programs and security protocols in place to protect the data received.⁸ Personal email computer storage systems are not inspected by the IRS for security.

Given the sensitive and confidential nature of the information handled by the IRS and the need to be accountable for all agency records, the IRS has in place policies restricting the use of email accounts.⁹ Transmission of Federal tax information is only permitted outside the IRS in limited circumstances. In 2012, the IRS published a revised section of its manual in which it

² 44 U.S.C. sec. 3101. See 44 U.S.C. sec. 3301 for a definition of Federal records that generally includes all documentary materials that agencies receive or create in the conduct of official business and that may have evidentiary value with respect to official business, regardless of the physical form of the materials.

³ See generally Title 44, at chapter 29 (records management by the Archivist of the United States and the General Services Administration), chapter 31 (records management of Federal agencies) and chapter 33 (disposal of records).

⁴ 36 CFR sec. 1236.22(a).

⁵ A quarterly bulletin published by the National Archives and Records Administration provides guidance to executive agencies. See generally NARA Bulletin 2013-03, available at <http://www.archives.gov/records-mgmt/bulletins/2013/2013-03.html>.

⁶ Sec. 6103(a).

⁷ See secs. 7213 (criminal unauthorized disclosure), 7213A (criminal unauthorized inspection) and 7431 (civil remedy for unauthorized inspection or disclosure).

⁸ Sec. 6103(p)(4).

⁹ I.R.M. paragraphs 1.10.3 *et seq.*, and 11.3.1.

updated its administrative rules on e-records generally, and banned use of non-IRS/Treasury email for any governmental or official purpose.¹⁰

Description of Proposal

The proposal codifies the administrative rule barring use of personal email accounts by IRS employees for official government business.

Effective Date

The proposal is effective on date of enactment.

¹⁰ I.R.M. paragraph 10.8.1.4.6.3.1, “Privately Owned E-Mail Accounts.” (May 3, 2012).

B. Estimated Revenue Effects

The proposal is estimated to have no effect on Federal fiscal year budget receipts for the period 2015-2025.