



*Fiscal Year 2007 Statutory Review
of Disclosure of Collection Activity
With Respect to Joint Returns*

July 12, 2007

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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.

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 12, 2007

**MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT**

FROM: *Michael R. Phillips*
Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2007 Statutory Review of Disclosure
of Collection Activity With Respect to Joint Returns
(Audit # 200740007)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) is in compliance with Internal Revenue Code Section (I.R.C. §) 6103(e)(8) related to the disclosure of collection activities to joint filers. The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(B) to evaluate annually the IRS' compliance with the joint filer provisions of the law.

Impact on the Taxpayer

I.R.C. § 6103(e)(8) gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the IRS' efforts to collect delinquent taxes on their joint return liabilities. The IRS has implemented procedures for responding to requests from taxpayers concerning collection activity on their joint tax liabilities. We believe these procedures provide its employees sufficient guidance for handling these requests in accordance with the law.

Synopsis

IRS policies and procedures provide employees with sufficient guidance for handling joint filer collection activity information requests. However, we could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written information requests from joint filers. IRS management information systems do not separately record or monitor joint filer requests, and Congress has not explicitly required the IRS to do so.



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Furthermore, we do not recommend the creation of a separate tracking system. Accordingly, we made no recommendations in this report.

Response

Because this is a positive report and we made no specific recommendations, comments from the IRS were not required.

Please contact me at (202) 622-6510 if you have questions or Michael E. McKenney, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 622-5916.



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Table of Contents

BackgroundPage 1

Results of ReviewPage 3

 The Internal Revenue Manual Provides Employees Sufficient
 Guidance for Handling Joint Filer Collection Activity
 Information RequestsPage 3

 Compliance With Statutory Requirements for the Disclosure of
 Collection Activity With Respect to Jointly Filed Tax Returns
 Cannot Be Determined.....Page 4

Appendices

 Appendix I – Detailed Objective, Scope, and MethodologyPage 5

 Appendix II – Major Contributors to This ReportPage 6

 Appendix III – Report Distribution ListPage 7



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Abbreviations

I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed
W&I	Wage and Investment



Fiscal Year 2007 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Background

The Taxpayer Bill of Rights 2¹ added Internal Revenue Code Section (I.R.C. §) 6103(e)(8), which gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the Internal Revenue Service's (IRS) efforts to collect delinquent taxes on their joint return liabilities.

I.R.C. § 6103(e)(8) requires the IRS to provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the Taxpayer Bill of Rights 2, the IRS issued procedures that stated, if I.R.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon I.R.C. § 6103(e)(7).

The IRS Restructuring and Reform Act of 1998² added I.R.C. § 7803(d)(1)(B), which requires the Treasury Inspector General for Tax Administration to review and certify annually whether the IRS is complying with the requirements of I.R.C. § 6103(e)(8).

The Treasury Inspector General for Tax Administration is required to annually evaluate the IRS' compliance with I.R.C. § 6103(e)(8).

The IRS Restructuring and Reform Act of 1998 also required both the Secretary of the Treasury and the Joint Committee on Taxation to complete separate studies of the scope and use of provisions regarding taxpayer confidentiality. The Joint Committee on Taxation issued its study report in January 2000 and recommended I.R.C. § 6103(e)(8) be amended to allow for oral information requests in addition to written requests. The Department of the Treasury issued its study report in October 2000 with a recommendation to eliminate the requirement that joint filer information requests be in writing.

A study by the IRS concluded there was a low volume of joint filer requests submitted under I.R.C. § 6103(e)(8). An analysis of 6 former district offices³ over a 6-month period in Calendar Year 2000 identified only 5 written joint filer requests. As a result of the study, management in the Small Business/Self-Employed (SB/SE) and Wage and Investment (W&I) Divisions⁴ decided not to develop a management control process to track joint filer information requests.

¹ Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

² Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

³ Locations formerly known as district offices are now called Area Offices by the IRS.

⁴ The SB/SE and W&I Divisions were created by the reorganization of the IRS. Components of the former Collection and Customer Service Divisions were made part of these Divisions.



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

This review was performed in the IRS National Headquarters in the Office of the Commissioner and the National Taxpayer Advocate function in Washington, D.C.; the SB/SE Division Headquarters in New Carrollton, Maryland; and the W&I Division Headquarters in Atlanta, Georgia, during the period March through May 2007. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Results of Review

The Internal Revenue Manual Provides Employees Sufficient Guidance for Handling Joint Filer Collection Activity Information Requests

The provision of the Taxpayer Bill of Rights 2 related to joint filers was enacted out of Congressional concern about the treatment of separated or divorced taxpayers. Representative Nancy L. Johnson (R-Connecticut), when introducing the Bill, stated:

The subcommittee learned of many instances where divorced taxpayers who had previously signed a joint tax return during their marriage were treated harshly when the IRS later disputed the accuracy of their joint tax return. In many cases the IRS tried to collect the entire amount of taxes from the wife, even though the omitted income or erroneous deductions which caused the deficiency were attributable solely to her former husband. All too often, the woman, being pursued for payment of taxes due, was not aware that a tax return filed during the marriage had been audited or that a deficiency had been imposed on the return.

To address this concern, the IRS revised its Internal Revenue Manual to include procedures for responding to taxpayers who file jointly and submit written requests for information on IRS collection activity. The Internal Revenue Manual instructs employees to disclose whether any attempts have been made to collect the tax due from either one of the joint filers, the general nature of any collection activity, and the amount collected to date.

The Internal Revenue Manual procedures allow employees to provide both oral and written responses to taxpayers. IRS procedures require employees to respond in writing only when taxpayers specifically cite I.R.C. § 6103(e)(8) as their authority for making written requests for collection information on joint return liabilities. If the taxpayer's written request does not specifically cite I.R.C. § 6103(e)(8), the IRS has directed employees to provide oral responses when practicable. The IRS believes oral responses provide good customer service to taxpayers because the taxpayers get immediate answers.



Fiscal Year 2007 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Compliance With Statutory Requirements for the Disclosure of Collection Activity With Respect to Jointly Filed Tax Returns Cannot Be Determined

IRS management information systems do not record or monitor joint filer requests. As such, we could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written requests from joint filers because of our inability to identify joint filer requests received nationwide. During this review, management from the SB/SE and W&I Divisions commented that the IRS' position has not changed from last year, and the IRS does not plan to implement a system to identify or track joint filer requests for collection activity. In addition, there is no statutory or regulatory requirement for the IRS to develop a separate system that records or monitors these requests.

We do not recommend the creation of a separate tracking system and are making no recommendations in this report. This is the ninth year in which we have reported our inability to provide an opinion on the IRS' compliance with the provisions of I.R.C. § 6103(e)(8).



Fiscal Year 2007 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS is in compliance with I.R.C. § 6103(e)(8) related to the disclosure of collection activities to joint filers. To accomplish our objective, we:

- I. Obtained confirmation from the SB/SE and W&I Divisions that the IRS neither has, nor plans to implement, a system or process to identify or track joint filer requests for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- II. Interviewed various IRS and Treasury Inspector General for Tax Administration personnel responsible for the Taxpayer Advocate Management Information System,¹ the Information Tracking System,² and the Performance and Results Information System³ to determine if there is a system or process that tracks taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).
- III. Obtained information on the actions taken by the IRS in response to I.R.C. § 6103(e)(8) to determine the impact on IRS programs.
 - A. Reviewed all prior Treasury Inspector General for Tax Administration audit reports for the mandatory Joint Filer Reviews to identify any corrective actions taken by the IRS.
 - B. Reviewed historical and current Internal Revenue Manual sections to identify any updates made in response to I.R.C. § 6103(e)(8).

¹ The Taxpayer Advocate Management Information System is an electronic database and case inventory control system used by Taxpayer Advocate Service employees.

² The Information Tracking System is an application used by the IRS to assign, control, and track information and correspondence. It replaced the Executive Control Management System.

³ The Performance and Results Information System is a management information system that provides the Treasury Inspector General for Tax Administration with the ability to manage and account for the thousands of complaints received and investigations initiated annually.



*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Appendix II

Major Contributors to This Report

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Bryce Kisler, Acting Director

Alan Lund, Acting Audit Manager

Craig Pelletier, Lead Auditor

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*Fiscal Year 2007 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Appendix III

Report Distribution List

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Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Small Business/Self-Employed Division SE:S
Commissioner, Wage and Investment Division SE:W
National Taxpayer Advocate TA
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division
SE:S:CLD
Director, Compliance, Wage and Investment Division SE:W:CP
Director, Strategy and Finance, Wage and Investment Division SE:W:S
Chief, Performance Improvement, Wage and Investment Division SE:W:S:PI
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Audit Liaisons:
 Director, Communications and Liaison, National Taxpayer Advocate TA:CL
 Senior Operations Advisor, Wage and Investment Division SE:W:S
 Chief, GAO/TIGTA/Legislative Implementation Branch SE:S:CLD:PSP:GTL