



*No Fair Tax Collection Practices  
Violations Were Closed in  
Fiscal Year 2011*

**April 26, 2012**

**Reference Number: 2012-10-044**

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.

---

Phone Number | 202-622-6500

E-mail Address | [TIGTACommunications@tigta.treas.gov](mailto:TIGTACommunications@tigta.treas.gov)

Website | <http://www.tigta.gov>



## HIGHLIGHTS

### **NO FAIR TAX COLLECTION PRACTICES VIOLATIONS WERE CLOSED IN FISCAL YEAR 2011**

## Highlights

**Final Report issued on April 26, 2012**

Highlights of Reference Number: 2012-10-044 to the Internal Revenue Service Chief Counsel and the Internal Revenue Service Human Capital Officer.

### **IMPACT ON TAXPAYERS**

The abuse or harassment of taxpayers by IRS employees while attempting to collect taxes reflects poorly on the IRS and can have a negative impact on voluntary compliance. It can also result in civil damages against the Federal Government when Fair Tax Collection Practices (FTCP) are violated. During Fiscal Year 2011, there were no cases involving FTCP violations for which an IRS employee received administrative disciplinary action, and there were no taxpayers who received civil damages for an FTCP violation. As such, taxpayers have reasonable assurance that communications with the IRS in connection with the collection of unpaid Federal taxes generally did not violate the FTCP statute.

### **WHY TIGTA DID THE AUDIT**

Section 1102(d)(1)(G) of the IRS Restructuring and Reform Act of 1998 requires TIGTA to include in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP violations listed in 26 U.S.C. Section 6304. This audit was conducted as part of TIGTA's Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights. The overall objective of this review was to obtain information on IRS administrative or civil actions resulting from FTCP violations by IRS employees.

### **WHAT TIGTA FOUND**

The IRS did not close any cases in Fiscal Year 2011 that it classified as FTCP violations. In addition, there were no civil actions resulting

in monetary awards for damages to taxpayers because of an FTCP violation. However, TIGTA identified one case that should have been coded and worked as a potential FTCP violation. TIGTA determined the case was not considered as a potential FTCP violation because guidance describing FTCP violations did not adequately define the allegation in this case as a potential violation.

### **WHAT TIGTA RECOMMENDED**

TIGTA recommended that the IRS Human Capital Officer: 1) clarify the descriptions and explanations of FTCP issue codes to ensure potential FTCP violations are coded and worked, and 2) reevaluate the miscoded case and determine whether there was a violation of any FTCP provision.

In response to the report, IRS management agreed with both recommendations. The IRS Human Capital Office issued new guidance expanding the definition for two of the seven FTCP issue codes and reevaluated the miscoded case to confirm there was no violation of any FTCP provision. However, IRS management stated they believe the case was coded properly. TIGTA continues to believe the case was miscoded because the taxpayer alleged the revenue officer's actions were punitive and caused financial harm. This allegation can only be confirmed by coding the case with an FTCP issue code and evaluating it using the FTCP criteria.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

April 26, 2012

**MEMORANDUM FOR** CHIEF COUNSEL  
INTERNAL REVENUE SERVICE HUMAN CAPITAL OFFICER

*Michael R. Phillips*

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

**SUBJECT:** Final Audit Report – No Fair Tax Collection Practices Violations Were Closed in Fiscal Year 2011 (Audit # 201210001)

This report presents the results of our review of Fair Tax Collection Practices<sup>1</sup> (FTCP) violations during Fiscal Year 2011. The overall objective of this review was to obtain information on Internal Revenue Service (IRS) administrative or civil actions resulting from violations of the FTCP for cases opened after July 22, 1998, and closed during Fiscal Year 2011. Section 1102(d)(1)(G) of the IRS Restructuring and Reform Act of 1998<sup>2</sup> requires the Treasury Inspector General for Tax Administration to include in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP violations. This audit was conducted as part of the Treasury Inspector General for Tax Administration Office of Audit Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Management's complete response to the draft report is included as Appendix VII.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Russell P. Martin, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations), at (202) 622-8500.

---

<sup>1</sup> 26 U.S.C. Section 6304 (2007).

<sup>2</sup> Pub. L. No. 105-206, 112 Stat. 702-703.



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

*Table of Contents*

**Background** .....Page 1

**Results of Review** .....Page 3

    No Cases Were Closed As Fair Tax Collection Practices  
    Violations; However, One Potential Violation Was Not  
    Identified .....Page 3

Recommendations 1 and 2: .....Page 4

    No Fair Tax Collection Practices Violations Resulted in  
    Civil Damages (Monetary Awards) to Taxpayers .....Page 5

    A New Control Has Eliminated Instances Where Cases  
    Were Removed From the Inventory System Without  
    Proper Documentation .....Page 5

**Appendices**

    Appendix I – Detailed Objective, Scope, and Methodology .....Page 6

    Appendix II – Major Contributors to This Report .....Page 8

    Appendix III – Report Distribution List .....Page 9

    Appendix IV – Outcome Measure .....Page 10

    Appendix V – Fair Tax Collection Practices Provisions .....Page 11

    Appendix VI – Fair Tax Collection Practices Violation Issue Codes .....Page 12

    Appendix VII – Management’s Response to the Draft Report.....Page 13



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

*Abbreviations*

ALERTS	Automated Labor and Employee Relations Tracking System
FTCP	Fair Tax Collection Practices
IRS	Internal Revenue Service



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

## *Background*

As originally enacted, the Fair Debt Collection Practices Act<sup>1</sup> included provisions that prohibit various collection abuses and harassment in the private sector. However, the restrictions did not apply to the Federal Government until passage of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998.<sup>2</sup> Congress believed that it was appropriate to require the IRS to comply with certain portions of the Fair Debt Collection Practices Act and be at least as considerate to taxpayers as private creditors are required to be with their customers. The IRS Restructuring and Reform Act of 1998 Section (§) 3466 requires the IRS to follow provisions, known as Fair Tax Collection Practices (FTCP),<sup>3</sup> similar to those in the Fair Debt Collection Practices Act.

IRS employees who violate any FTCP provision are subject to disciplinary actions. Violations and related disciplinary actions are tracked on the IRS Human Capital Officer's Automated Labor and Employee Relations Tracking System (ALERTS). In addition, the Federal Government may be subject to claims for damages under 26 U.S.C. § 7433, Civil Damages for Certain Unauthorized Collection Actions, if the FTCP violations are substantiated. Taxpayer civil actions are tracked on the Office of Chief Counsel's Counsel Automated System Environment.

***IRS employees are required to follow Fair Tax Collection Practices, similar to those in the Fair Debt Collection Practices Act.***



The IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G)<sup>4</sup> requires the Treasury Inspector General for Tax Administration to include in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP violations listed in 26 U.S.C. § 6304.<sup>5</sup> This report must provide a summary of such actions and include any judgments or awards granted to taxpayers. The Treasury Inspector General for Tax Administration is required to report as violations the actions taken by IRS employees who were involved in a collection activity and who received a disciplinary action that is considered an

---

<sup>1</sup> 15 U.S.C. §§ 1601 note, 1692-1692o (2006).

<sup>2</sup> 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.).

<sup>3</sup> See Appendix V for a detailed description of FTCP provisions.

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 702-703.

<sup>5</sup> 26 U.S.C. § 6304 (2007).



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

administration action.<sup>6</sup> Information from this report will be used to meet the requirements of the IRS Restructuring and Reform Act of 1998 § 1102 (d)(1)(G).

At the time of this report, the IRS Human Capital Office was revising its guidance for coding potential FTCP violations on the ALERTS. As a result, this report might not reflect the most current status of the IRS Human Capital Office's efforts to ensure potential FTCP violations are identified and addressed.

This review was performed at the offices of the IRS Human Capital Officer and the Chief Counsel in the IRS National Headquarters in Washington, D.C., during the period November 2011 through January 2012. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

---

<sup>6</sup> The law does not provide a definition of administrative action; however, for this review, we used the IRS's definition, which is action that ranges from a letter of admonishment to removal.



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

*Results of Review*

In Fiscal Year 2011, the IRS did not close any cases that it classified as FTCP violations. In addition, there were no civil actions resulting in monetary awards for damages to taxpayers because of an FTCP violation. As such, taxpayers have reasonable assurance that communications with the IRS in connection with the collection of unpaid Federal taxes did not violate the FTCP statute. However, we identified one case that should have been coded and worked as a potential FTCP violation. Accurately coding and working potential FTCP violations is important because the abuse or harassment of taxpayers by IRS employees while attempting to collect taxes reflects poorly on the IRS and can have a negative impact on voluntary compliance.

***No Cases Were Closed As Fair Tax Collection Practices Violations;  
However, One Potential Violation Was Not Identified***

IRS employees are prohibited from using abusive or harassing behavior towards taxpayers in connection with the collection of unpaid Federal taxes. When allegations of misconduct are received, the IRS controls the allegation on the ALERTS<sup>7</sup> by assigning an issue code defining the alleged violation, gathers information regarding the facts and circumstances surrounding the allegation, and decides what action, if any, should be taken against the employee.

Although the IRS did not close any cases in Fiscal Year 2011 with an FTCP issue code, we determined one case that was closed under a different issue code should have been coded as a potential FTCP violation. Instead of classifying the case as a potential FTCP violation, IRS Human Capital Office officials classified the case as an unprofessional conduct case and determined that the revenue officer's actions were not unprofessional. Classifying the case as a potential FTCP violation would have required officials to evaluate the allegation using FTCP criteria which is different from the criteria used to evaluate unprofessional conduct. We believe this case should have been coded and worked as a potential FTCP violation because the taxpayer alleged a revenue officer caused financial harm by attempting to levy wages from a prospective employer. The taxpayer

***Although the IRS did not classify any cases as potential FTCP violations on its inventory database, we identified one case that should have been coded and worked as a potential violation.***



---

<sup>7</sup> The IRS assigns an issue code to a case to identify the potential misconduct issue(s) that needs to be addressed.



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

claimed the revenue officer's action was punitive because it was premature and effectively undermined the taxpayer's chance of employment.

The allegation was not considered as a potential FTCP violation because guidance describing FTCP violations did not adequately define this as a potential violation. For example, the FTCP issue code most applicable to this allegation only describes the use or threat of physical harm<sup>8</sup> and does not include financial harm, as was alleged in this case.

If the case had been coded and worked as a potential FTCP violation and it was determined the revenue officer's actions violated the provisions in the FTCP statute, the taxpayer may have been eligible for civil damages against the Federal Government.

***Management Action:*** The IRS Workforce Relations function has begun the process of clarifying the description and explanation of this issue code to incorporate the potential for harm that was identified in this case. In addition, this case has prompted the IRS to consider whether the descriptions for other FTCP issue codes are too restrictive.

## ***Recommendations***

***Recommendation 1:*** The IRS Human Capital Officer should clarify the descriptions and explanations of the FTCP violations issue codes to ensure taxpayers' allegations in connection with collection-related activities of unpaid Federal taxes are accurately coded and worked.

***Management's Response:*** The IRS agreed with this recommendation. The IRS Human Capital Office revised two of the seven issue codes associated with FTCP criteria. Both issue codes are relevant to taxpayer protection and were expanded to include allegations of all types of taxpayer harassment and abuse. The Field Operations Associate Director was provided new guidance for dissemination.

***Recommendation 2:*** The IRS Human Capital Officer should reevaluate the miscoded case and determine whether there was a violation of any FTCP provision.

***Management's Response:*** The IRS agreed with this recommendation. The IRS Human Capital Office examined the case using FTCP criteria and confirmed the revenue officer did not threaten to use violence or do harm to any taxpayer, nor was the levy inappropriately issued. There was no violation of any other FTCP provision including inappropriate communication, obscene/profane language, telephone harassment, or lack of identity disclosure. The revenue officer acted within the parameters of his or her position. Therefore, the IRS Human Capital Office believes the case was coded properly.

---

<sup>8</sup> See Appendix VI for a detailed description of FTCP violation issue codes.



## *No Fair Tax Collection Practices Violations Were Closed in Fiscal Year 2011*

***Office of Audit Comment:*** While we appreciate the IRS Human Capital Office for reevaluating the case, we continue to believe the case was miscoded. The taxpayer alleged the revenue officer's actions were punitive and caused financial harm. This allegation can be confirmed only by coding the case with an FTCP issue code and evaluating it using the FTCP criteria.

### ***No Fair Tax Collection Practices Violations Resulted in Civil Damages (Monetary Awards) to Taxpayers***

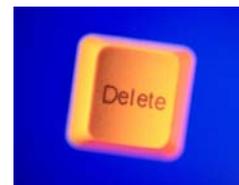
Internal Revenue Code § 7433<sup>9</sup> provides that a taxpayer may bring a civil action for damages against the Federal Government if an officer or employee of the IRS recklessly, intentionally, or negligently disregards any provision of the Internal Revenue Code or related regulation in connection with the collection of any unpaid Federal tax. There were no cases closed on the Counsel Automated System Environment database during Fiscal Year 2011 for which the IRS paid civil damages to taxpayers resulting from FTCP violations.

### ***A New Control Has Eliminated Instances Where Cases Were Removed From the Inventory System Without Proper Documentation***

Controlling inventory on the ALERTS is important to prevent the unsubstantiated removal of cases, including FTCP violations, especially those that may warrant IRS management administrative actions. Although no FTCP violations were identified in the ALERTS data we reviewed, we determined that 30 of the 18,510 cases opened in Fiscal Year 2011 were subsequently removed from the ALERTS making them unavailable for our review. As a result, we could not verify whether these cases were FTCP violations.

In April 2011, the IRS implemented an audit control log on the ALERTS database that appears to have addressed this issue by eliminating cases removed without proper documentation. In the first six months of Fiscal Year 2011, there were 28 cases removed from the ALERTS. We requested documentation to support removal for 10 of the 28 cases and found that documentation was not maintained to support the removal of four (40 percent) of them.<sup>10</sup> However, since implementation of the new audit control log, only two cases have been removed and in both instances, IRS Human Capital Office officials were able to provide documentation to substantiate that their removal was due to a system outage.

***Since implementing an audit control log, the IRS Human Capital Office has been able to substantiate the reason for removing cases from the inventory database.***



<sup>9</sup> 26 U.S.C. § 7433.

<sup>10</sup> A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

## Appendix I

### *Detailed Objective, Scope, and Methodology*

The overall objective of this audit was to obtain information on any IRS administrative or civil actions resulting from violations of the FTCP for cases opened after July 22, 1998, and closed during Fiscal Year 2011. To accomplish this objective, we:

- I. Obtained all ALERTS data and performed the following tests to validate the accuracy and completeness of the data.
  - A. Performed checks of the data to determine whether information in data fields was reasonable. For example, we determined if date fields contained dates, if any blank fields were explainable, and if fields contained only applicable data required for that field.
  - B. Performed a query of ALERTS data to determine whether there were unexplained gaps in the sequential order<sup>1</sup> of case numbers, *etc.* We selected a judgmental sample<sup>2</sup> of 10 of the 28 cases that had been removed from the ALERTS prior to implementation of the ALERTS control log and requested documentation supporting their removal. We determined a sample size of 10 cases was appropriate to identify an inventory control weakness. In addition, we reviewed two cases that were removed from the ALERTS after implementation of the ALERTS control log and requested documentation to support their removal.
  - C. Performed a query of the ALERTS data to identify cases opened after July 22, 1998, with an issue code of 141 to 147<sup>3</sup> and closed during Fiscal Year 2010, and confirmed that the resulting number of violations matched the number provided by the IRS during the prior year's audit.<sup>4</sup>
- II. Identified the number of FTCP violations resulting in administrative actions for any cases opened after July 22, 1998, and closed during Fiscal Year 2011.
  - A. Performed a query of the ALERTS to identify cases coded as FTCP violations that were opened after July 22, 1998, and closed during Fiscal Year 2011 and determined whether any cases involving FTCP violations resulted in administrative actions.

---

<sup>1</sup> Only Fiscal Year 2011 ALERTS data were reviewed to determine whether there were unexplained gaps in the sequential order of case numbers.

<sup>2</sup> We used judgmental sampling to select cases because we did not plan to project the results.

<sup>3</sup> See Appendix VI for a description of FTCP violation issue codes.

<sup>4</sup> Treasury Inspector General for Tax Administration, Ref No 2011-10-045, *Collection Employees Adhered to Fair Tax Collection Practices During Fiscal Year 2010* (Apr. 2011).



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

- B. Performed a query of the ALERTS for cases opened after July 22, 1998, and closed during Fiscal Year 2011, and analyzed the results to determine whether any cases were miscoded and should have been coded as FTCP violations.
  - C. Verified query results in Steps II.A. and B. by confirming the number of violations with IRS personnel's query of the ALERTS database.
- III. Identified the number of FTCP violations resulting in IRS civil actions (judgments or awards granted) by obtaining a computer extract from the Office of Chief Counsel's Counsel Automated System Environment database of Subcategory 6304 (established to track FTCP violations) cases opened after July 22, 1998, and closed during Fiscal Year 2011. Due to time constraints, we did not conduct validation tests of this system. The Fiscal Year 2011 data were consistent with those of past years, and there is low risk that cases were misclassified because qualified attorneys were deciding whether each case met the legal definition of an FTCP violation. For these reasons, we considered the data's reliability as undetermined but suitable for use in this report.

**Internal controls methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: the guidance used to code and work potential FTCP violation cases, FTCP provisions used to identify potential violations, and the ALERTS audit control log to substantiate the removal of cases from the database. We evaluated these controls by interviewing management, performing queries of ALERTS data, and reviewing database controls used to capture information on the ALERTS.



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

**Appendix II**

*Major Contributors to This Report*

Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations)  
Troy D. Paterson, Director  
James V. Westcott, Audit Manager  
John W. Baxter, Lead Auditor  
Julia Moore, Senior Auditor



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Operations Support OS  
Director, Workforce Relations, IRS Human Capital Officer OS:HC:R  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaisons:  
    Chief Counsel CC  
    IRS Human Capital Officer OS:HC



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

## **Appendix IV**

### *Outcome Measure*

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

**Type and Value of Outcome Measure:**

- Reliability of Information – Actual; one miscoded FTCP violation case (see page 3).

**Methodology Used to Measure the Reported Benefit:**

We reviewed closed Fiscal Year 2011 ALERTS cases that involved collection activities and were not classified as FTCP violations. We determined one case that was closed under a non-FTCP issue code should have been coded and worked as a potential FTCP violation. Instead of classifying the case as a potential FTCP violation, IRS Human Capital Office officials classified the case as an unprofessional conduct case.



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

## **Appendix V**

### *Fair Tax Collection Practices Provisions*

To ensure equitable treatment of debt collectors in the public and private sectors, the IRS Restructuring and Reform Act of 1998<sup>1</sup> requires the IRS to comply with certain provisions of the Fair Debt Collection Practices Act.<sup>2</sup> Specifically, the IRS may not communicate with taxpayers in connection with the collection of any unpaid tax:

- At unusual or inconvenient times.
- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS and the IRS knows or can easily obtain the representative's name and address.
- At the taxpayer's place of employment, if the IRS knows or has reason to know that such communication is prohibited.

In addition, the IRS may not harass, oppress, or abuse any person in connection with any tax collection activity or engage in any activity that would naturally lead to harassment, oppression, or abuse. Such conduct specifically includes, but is not limited to:

- Use or threat of violence or harm.
- Use of obscene or profane language.
- Causing a telephone to ring continuously with harassing intent.
- Placement of telephone calls without meaningful disclosure of the caller's identity.

---

<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 768-769.

<sup>2</sup> 15 U.S.C. §§ 1601 note, 1692-1692p (2006).



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

**Appendix VI**

*Fair Tax Collection Practices Violation Issue Codes*

Issue Code	Description
141	CONTACT TAXPAYER UNUSUAL TIME/PLACE – Contacting a taxpayer before 8:00 a.m. or after 9:00 p.m., or at an unusual location or time, or location known or which should be known to be inconvenient to the taxpayer.
142	CONTACT TAXPAYER WITHOUT REPRESENTATIVE – Contacting a taxpayer directly without the consent of the taxpayer’s Power of Attorney.
143	CONTACT AT TAXPAYER EMPLOYMENT WHEN PROHIBITED – Contacting a taxpayer at their place of employment when it is known or should be known that the taxpayer’s employer prohibits the taxpayer from receiving such communication.
144	USE/THREAT OF PHYSICAL HARM – Conduct which is intended to harass or abuse a taxpayer, or conduct which uses or threatens to use violence or harm.
145	USE OBSCENE/PROFANE LANGUAGE TO ABUSE – The use of obscene or profane language toward a taxpayer.
146	CONTINUOUS PHONE CALLS WITH INTENT TO HARASS – Causing a taxpayer’s telephone to ring continuously with harassing intent.
147	PHONE CALLS WITHOUT MAKING FULL IDENTIFICATION DISCLOSURE – Contacting a taxpayer by telephone without providing a meaningful disclosure of the IRS employee’s identity.

*Source: IRS ALERTS User Manual (April 2011).*



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

**Appendix VII**

*Management's Response to the Draft Report*



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

April 9, 2012

MEMORANDUM FOR MICHAEL R. PHILLIPS  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Debra Chew   
IRS Human Capital Officer

SUBJECT: Draft Audit Report – No Fair Tax Collection Practices Violations  
Were Closed in Fiscal Year 2011 (Audit #201210001)

We have received the draft audit report dated March 9, 2012, and appreciate having the opportunity to work with your auditors and to implement solutions to the issues identified. We acknowledge your findings and recommendations as they pertain to Automated Labor and Employee Relations Tracking System (ALERTS) issue codes and a case entered in ALERTS involving potential Fair Tax Collection Practices (FTCP) violations.

The ALERTS is a database affecting many stakeholders, including Treasury Inspector General for Tax Administration (TIGTA). The accuracy of the data in ALERTS is important to its continued success as a reliable source of information. The ALERTS offers the use of seven (7) "issue codes" that identify the various FTCP infractions as set forth in 26 U.S.C. § 6304. As one of our stakeholders, TIGTA must report to Congress on cases the IRS has addressed that involved FTCP violations. The correct use of these issue codes will ensure accurate reports to Congress.

You identified one (1) case that may have been coded incorrectly and recommended it be examined again under FTCP criteria to determine if there was a violation of any FTCP provision. I agree that this case presented facts that would draw your auditor's attention. However, after our examination of the file, we determined that it was properly coded and worked as an unprofessional conduct case.

We have taken steps to implement your recommendations, and our response is attached. If you have any questions, please call me at (202) 622-7676, or Phyllis Brown, Director, Workforce Relations Division, at (202) 622-6300.

Attachment



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

TIGTA Audit #201210001

Attachment

**Recommendation 1:** The IRS Human Capital Officer should clarify the descriptions and explanations of the FTCP violation issue codes to ensure taxpayers' allegations in connection with collection-related activities of unpaid Federal taxes are accurately coded and worked.

**Corrective Action:**

Two (2) of the seven (7) FTCP issue codes are relevant to taxpayer protection. The other codes refer to contact or identification rules and are clearly written. Issue Code 144 on use/threat of physical harm and Issue Code 145 on use of obscene/profane language to abuse have been expanded. The Field Operations Associate Director was provided new guidance for dissemination to her staff.

Original Language	Language effective 2-21-2012
<p>144 6304: USE/THREAT OF PHYSICAL HARM - Valid only for Collection Employees</p> <p>FDCPA cases only - Conduct which is intended to harass or abuse a taxpayer, or conduct which uses or threatens to use violence or harm.</p>	<p>6304: TAXPAYER HARASSMENT IN A TAX COLL MATTER - Valid only for Collection Employees</p> <p>Alleged Fair Tax Collection Practices violations only. <u>Any</u> allegation of taxpayer harassment should be reviewed along with the Internal Revenue Code (IRC 6304) because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. Conduct which is intended to harass a taxpayer or conduct which uses or threatens to use violence or harm is an absolute violation of the IRC.</p>
<p>145 6304: OBSCNE/PRFANE LANG TO ABUSE - Valid only for Collection Employees</p> <p>FDCPA cases only - The use of obscene or profane language toward a taxpayer.</p>	<p>6304: TAXPAYER ABUSE IN A TAX COLLECTION MATTER - Valid only for Collection Employees</p> <p>Alleged Fair Tax Collection Practices violations only. <u>Any</u> allegation of taxpayer abuse should be reviewed along with the Internal Revenue Code (IRC 6304) because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. The use of obscene or profane language towards a taxpayer is an absolute violation of the IRC.</p>



*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

2

**Implementation Dates:**

Codes changed February 21, 2012; Guidance delivered March 19, 2012.

**Responsible Official:**

Director, Workforce Relations Division

**Corrective Action Monitoring Plan:** Not applicable



---

*No Fair Tax Collection Practices  
Violations Were Closed in Fiscal Year 2011*

---

3

TIGTA Audit #201210001

**Recommendation 2:** The IRS Human Capital Officer should reevaluate the miscoded case and determine whether there was a violation of any FTCP provision.

**Correction Action:** We agree with this recommendation. We examined the case using FTCP criteria. We confirmed the Revenue Officer did not threaten to use violence or do harm to any person; nor did she inappropriately issue a levy. There was no violation of any other FTCP provision, including: inappropriate communication, obscene/profane language, telephone harassment, or lack of identity disclosure. The RO acted within the parameters of her position. Therefore, we believe the case was coded properly.

**Implementation Date:** Not applicable

**Responsible Official:** Not applicable

**Corrective Action Monitoring Plan:** Not applicable