



*Fiscal Year 2019 Statutory Review of
Disclosure of Collection Activities
on Joint Returns*

September 4, 2019

Reference Number: 2019-30-059

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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HIGHLIGHTS

FISCAL YEAR 2019 STATUTORY REVIEW OF DISCLOSURE OF COLLECTION ACTIVITIES ON JOINT RETURNS

Highlights

Final Report issued on September 4, 2019

Highlights of Reference Number: 2019-30-059 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) requires the IRS to disclose efforts to collect delinquent taxes on joint tax liabilities when requested by taxpayers who are no longer married or no longer reside in the same household. I.R.C. § 6103(e)(7) allows authorized representatives of the joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). If the IRS does not provide employees sufficient guidance for handling those requests, taxpayer rights could potentially be violated.

WHY TIGTA DID THE AUDIT

This audit was initiated because the IRS Restructuring and Reform Act of 1998 added I.R.C. § 7803(d)(1)(B), which requires TIGTA to annually review and certify the IRS's compliance with I.R.C. § 6103(e)(8). The objective of this review was to determine whether the IRS is complying with the provisions of I.R.C. § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers.

WHAT TIGTA FOUND

TIGTA's review of computer system history files and employee interviews showed that employees were not always aware of the disclosure requirements for joint filer taxpayer contacts. TIGTA's review of computer system history files found that the I.R.C. joint filer disclosure requirements were not followed in 22 (73 percent) of 30 Integrated Collection System history files and 17 (57 percent) of 30 Account Management Services history files.

In interviews that TIGTA conducted of a judgmental sample of 30 employees (15 revenue officers and 15 Automated Collection System function customer service representatives), revenue officers answered 31 percent of the questions incorrectly and customer service representatives answered 46 percent incorrectly.

After the addition of I.R.C. § 6103(e)(8), the IRS updated Internal Revenue Manual sections to provide employees with guidance on responding to joint filer requests to comply with the law. However, the lack of a detailed list of what employees can disclose for joint filer requests in the various Internal Revenue Manuals and incomplete and inconsistent training between the various employees who provide collection information to taxpayers may be contributing to employees' hesitation to disclose information.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS: 1) produce a detailed but simple-to-understand list of information that must be provided to IRS employees so that they understand the type of information that must be provided to joint filers seeking collection information (as well as the type of information that must not be provided to joint filers seeking collection information) and encourage employees who are still confused about their legal obligations to contact the Disclosure Help Desk, and 2) require I.R.C. §§ 6103(e)(7) and (e)(8) training for all employees with taxpayer contact regarding balance due or collection issues to remind them of the requirements to disclose tax return and collection activity on jointly filed returns when requested by the joint spouse.

IRS officials partially agreed with the recommendations and plan to take corrective actions. The IRS plans to update guidance with common joint filer scenarios and consider training for Collection function employees; however, TIGTA believes the updated guidance should include a simple list for quick reference and training should be provided to all employees with taxpayer contact regarding balance due or collection issues so they are aware of what information they are required to provide to taxpayers under I.R.C. §§ 6103(e)(7) and (e)(8).



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 4, 2019

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2019 Statutory Review of Disclosure
of Collection Activities on Joint Returns (Audit # 201930003)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) is complying with the provisions of Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(B) to annually evaluate the IRS's compliance with I.R.C. § 6103(e)(8). We have evaluated the IRS's compliance with these provisions since Fiscal Year 1999. This audit is included in our Fiscal Year 2019 Annual Audit Plan and addresses the major management challenge area of Protecting Taxpayer Rights.

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

If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



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Abbreviations

AMS	Account Management Services
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Taxpayer Bill of Rights 2¹ added Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household, upon request in writing by either of the individuals, the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount collected. I.R.C. § 6103(e)(7) allows authorized representatives of the joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). After passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers. This is more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which requires the IRS to provide written responses to written requests. Additionally, in Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is the right to be *informed*.

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

The IRS Restructuring and Reform Act of 1998 requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request.² We cannot readily identify the population of cases in which joint filers made such requests. To identify these requests, the IRS would have to conduct a manual review of every taxpayer case in the collection process with a jointly filed tax return, looking for a notation in the case file or a copy of the taxpayer's letter.

During last year's review,³ we interviewed a judgmental sample⁴ of customer service representatives from the Accounts Management function, individual taxpayer advisory specialists from Taxpayer Assistance Centers, and case advocates from the Taxpayer Advocate Service and found that the information guaranteed under I.R.C. § 6103(e)(8) and that should be

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 TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns* (July 2018).

⁴ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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disclosed under I.R.C. § 6103(e)(7) was not always being provided. We also identified some cases for which taxpayers requested collection information for jointly filed returns by making queries of taxpayer computer system history files and determined employees did not always follow the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8).

This year's review was performed with information obtained from the offices of the IRS Commissioner; the National Taxpayer Advocate; the Privacy, Governmental Liaison, and Disclosure Office located in Washington, D.C.; the Small Business/Self-Employed Division Headquarters located in Lanham, Maryland; and at Field Collection offices in Warwick, Rhode Island; Seattle, Washington; and Waukesha, Wisconsin; and IRS Campuses in Fresno, California; Denver, Colorado; and Andover, Massachusetts, during the period September 2018 through June 2019. 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.



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Results of Review

Employees Are Not Properly Disclosing Collection Activity on Jointly Filed Returns

Over the last four years, we have interviewed employees about how they respond or would respond to I.R.C. § 6103(e)(8) requests and have queried computer system history files in an attempt to identify the full population of cases. In our queries of the history files, we were unable to identify the population of joint filer requests; however, over the last two years, our queries identified some cases for which taxpayers requested collection information for jointly filed returns. The results of our interviews and history file queries for this year's audit are included in this report.

In last year's report, we recommended that the IRS require all Internal Revenue Manual (IRM) sections used as guidance by employees who respond to taxpayer inquiries on disclosure of collection activities with respect to joint returns be updated to refer to the Disclosure IRM and when necessary to contact the Disclosure Help Desk.⁵ The IRS disagreed with this recommendation and provided that the Disclosure IRM is not intended to relay specific operational procedures and that the Disclosure Help Desk assists employees with unique or complex disclosure matters that are not covered by existing functional guidance and may require expertise in interpreting I.R.C. § 6103 provisions. We included the following in our Office of Audit comment in the report, "The purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees' obligations under the disclosure laws. We therefore maintain the Disclosure Office should ensure that IRS employees have sufficient and accurate guidance related to the disclosure laws." As we continue to identify issues with employees not correctly responding to joint filer requests, it is apparent that there is a need for the IRS to take more direct actions to help ensure that taxpayer rights are not violated by IRS employees who are not informed about the type of information they are required to provide to taxpayers.

Case histories show employees are not always aware of the disclosure requirements for joint filer taxpayer contacts

As part of this year's review, we queried IRS computer files in an attempt to independently identify a population of joint filer disclosure contacts made during Fiscal Year 2018. We performed queries on the history files using specific combinations of key words associated with separated or divorced joint filer disclosures to determine whether these word combinations

⁵ IRM 11.3.1.1(3) (Mar. 13, 2018).



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would solely and completely identify joint filer disclosure contacts. We could not identify the population of disclosure contacts based on key word searches; however, we did identify a population of taxpayers who were potentially related to these types of contacts in both the Integrated Collection System (ICS) and the Account Management Services (AMS) history files.⁶

We identified 273 ICS case histories and 275 AMS case histories that potentially related to an I.R.C. § 6103(e)(8) request in which an individual requested collection activity information on a previously filed joint return, but was no longer married or no longer resided in the same household with the other individual. We reviewed 91 ICS case histories to identify 30 cases and 74 AMS case histories to identify 30 cases that were directly related to the joint filer requests.

Based on our review, we determined that I.R.C. §§ 6103(e)(7) and (e)(8) were not followed in 22 (73 percent) of 30 ICS cases and 17 (57 percent) of 30 AMS cases. Of the total 39 cases in which there was not proper disclosure, 31 cases were worked by Small Business/Self-Employed Division, Collection function employees (revenue officers and Automated Collection System function employees), and eight cases were worked by Wage and Investment Division, Accounts Management function employees. Of the errors we identified, 22 ICS cases and 17 AMS cases involved requests for information in which the employee told the taxpayer that they could not disclose any information related to the ex-spouse even though the return was filed jointly. Some of the other errors we identified were not specifically included in the IRM related to joint filer disclosures, such as innocent spouse relief and refunds.

IRS management agreed with the majority of the errors that we identified, but took exception when the ex-spouse did not specifically request the information. IRS management stated that if the taxpayer did not ask specifically about the collection activity such as, “Have you tried to collect from my ex?” or “Is my ex paying anything?” the employee is not obligated to volunteer that information unsolicited. Therefore, they disagreed with some of the errors that we identified in which the taxpayer did not specifically ask about collection activity and maintained that determining the exact nature of the conversation based on the case history notes is often difficult and subject to interpretation. For example, if the taxpayer asked about the status of the joint account, the case notes indicated that the employee immediately stated that they could not disclose any information because they were separated or divorced.

Interviews showed that employees are not always aware of the disclosure requirements for joint filer taxpayer contacts

This year, we interviewed a judgmental sample of 30 employees: 15 revenue officers from Field Collection and 15 customer service representatives from the Automated Collection System

⁶ The ICS is a system used by Field Collection employees (revenue officers) to report taxpayer case time and activity. The AMS provides a common user interface that allows users to update taxpayer accounts, view history and comments from other systems, and access a variety of case processing tools. AMS histories are input by employees in the Small Business/Self-Employed Division’s Automated Collection System function and the Wage and Investment Division’s Accounts Management and Field Assistance functions.



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function. The interviews were to determine what information they would disclose from a jointly filed return if the individuals filing the return are no longer married or no longer reside in the same household.

During the interviews, we asked 17 questions regarding collection information that a spouse or ex-spouse who is no longer married or no longer resides in the same household may ask regarding a jointly filed return and who may have mirrored accounts. Mirrored accounts separate a joint account into two accounts, one for each of the taxpayers. The two mirrored accounts remain jointly liable; however, establishing two accounts provides the IRS a means to track collection activity unique to each of the (former) spouses. The questions to the employees were to determine if they were aware of what information they could provide related to joint filers. In the interviews, revenue officers answered 31 percent of the questions incorrectly and Automated Collection System function customer service representatives answered 46 percent incorrectly. The interviews show that they do not understand what information they are required to provide taxpayers (and what they are required not to provide), potentially violating taxpayers' rights when this information is not provided.

To develop our questions for the interviews, we reviewed five IRMs which all address disclosure of collection activities with respect to joint returns.⁷ While none gave conflicting instruction, they did not provide the same level of instruction in all instances. For example, only one IRM states an ex-spouse may be told that the other ex-spouse's account was suspended due to bankruptcy status.⁸ Another issue we identified is that the Field Collection IRM initially provides that the request for this information *must be* requested in writing under I.R.C. § 6103(e)(8), but also includes that it "*may be* requested verbally under I.R.C. § 6103(e)(7)."⁹ Not surprisingly, several revenue officers interviewed said that when they are asked a question related to collection activity involving an ex-spouse, they tell the taxpayer to request it in writing.

However, after our interviews, the IRS provided us interim guidance effective April 11, 2019, that updates the Field Collection IRM to make it clear that information shall be disclosed *verbally* upon receipt of a *verbal or written* request from a spouse who has been assessed the joint tax. The updated guidance also includes the following items that can be disclosed to the joint filer taxpayer:

- Whether the IRS has attempted to collect the deficiency from the other spouse.
- The amount collected, if any, and the current collection status, *e.g.*, notice, Taxpayer Delinquent Account, installment agreement, offer in compromise, suspended.

⁷ 1) IRM 21.6.8.3 (Oct. 1, 2018), 2) IRM 11.3.2.4.1.1 (Jan. 26, 2017), 3) IRM 5.19.5.4.11.1 (Mar. 9, 2018), 4) IRM 5.1.22.3.1 and 5.1.22.3.1.1 (Oct. 21, 2011), and 5) IRM 25.15.1.9.2 (Jun. 26, 2017).

⁸ IRM 5.19.5.4.11.1 (Mar. 9, 2018).

⁹ IRM 5.1.22.3.1 (Oct. 21, 2011).



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- If suspended, the reason for suspension, *e.g.*, unable to locate, hardship, *etc.*

Both the IRM and updated guidance also include prohibited disclosures such as the other spouse's location, telephone number, employment, income, assets, or income level at which a currently not collectible account will be reactivated. Additionally, the updated guidance directs Field Collection employees to refer requests for information concerning divorced or separated spouses beyond that provided for in I.R.C. § 6103(e)(8) or that is otherwise statutorily available pursuant to I.R.C. § 6103(e), *Disclosure to Persons Having Material Interest*, to the Office of Disclosure.¹⁰

However, the updated guidance still does not provide the revenue officer with a detailed list of what can be disclosed. For example, it includes “*e.g.*” and “*etc.*” instead of providing all of the allowed disclosures. Some questions that a revenue officer might still have when reviewing the IRM to determine the correct disclosure to the joint filer are:

- Can the ex-spouse joint filer be told all reasons for a suspension, *e.g.*, appeal, innocent spouse relief, bankruptcy, and what specific suspension details can be disclosed?
- Can the ex-spouse joint filer be told that there is a pending installment agreement or a pending offer in compromise?

We discussed these questions with the IRS Office of Chief Counsel to determine if employees are allowed to make disclosures for these types of situations. Counsel responded that the reasons for suspension could be disclosed, but not the details of the suspension, such as the reason for bankruptcy. However, they could not immediately answer if innocent spouse relief could be disclosed based on the current guidance. After they conducted additional research, they determined that it is an allowed disclosure. Additionally, they conducted additional research and determined that a pending installment agreement and a pending offer in compromise could be disclosed to the joint filer.

Additionally, because the joint filer disclosure requirements affect more than just Field Collection, all IRMs for employees with taxpayer contact should include a detailed list of what employees can disclose for joint filer requests. The IRMs need to be clear and consistent so employees do not have any questions about what they can legally disclose to taxpayers.

Based on our review of case histories and interviews with employees, there is continued inconsistency in how employees are responding to taxpayers' requests for collection information on their previous jointly filed returns when they are no longer married or no longer reside in the same household. The IRM does not provide employees with a detailed list of what can be disclosed in response to these inquiries, which may be contributing to employees' misunderstanding. When employees are unsure of the appropriate disclosure, they might not want to risk inappropriate disclosure of I.R.C. § 6103 and potentially be disciplined for the error.

¹⁰ Interim Guidance for IRM 5.1.22.3.1 (Apr. 11, 2019).



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Also, over the last several years, we have recommended updates to training materials with information on the appropriate joint filer disclosures for employees who have taxpayer contact. For example, last year we reviewed the training materials for Accounts Management function, Taxpayer Assistance Centers, and Taxpayer Advocate Service employees and did not identify any specific disclosure guidance for responding to joint filer inquiries in the Accounts Management function and Taxpayer Assistance Center training materials. The Taxpayer Advocate Service provided excerpts from two mirrored-account training courses that included reference to disclosures for joint filers; however, the training was not consistent or complete. Although the IRS has updated training for various functions, we continue to identify employees who are unaware that they can disclose joint filer information to separated or divorced spouses. Therefore, the IRS should provide training on the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8) to all employees with taxpayer contact regarding balance due or collections issues who provide collection information to taxpayers.

Without consistent training and clear guidance, taxpayers may not be accorded their rights to obtain collection activity information on their jointly filed returns. Additionally, there is inequitable treatment of taxpayers because of the differing responses to these types of inquiries and additional taxpayer burden when employees inform the taxpayer that the request for information from their jointly filed return has to be requested in writing.

Our proposal in last year's report to cross-reference the Disclosure IRM¹¹ and refer employees who have questions to the Disclosure Help Desk was a reasonable attempt to ensure that IRS employees understand their obligations under the law and do not violate taxpayers' rights by denying them information to which they are entitled. The IRS responded that the Disclosure IRM is intended for basic rather than specific information but did not address TIGTA's recommendation that employees be encouraged to contact the Disclosure Help Desk with questions. Yet, a significant percentage of IRS employees still do not understand their obligations under the law, and it appears that a detailed but simple list of "dos" and "don'ts" needs to be provided to employees, as well as training.

Recommendations

Recommendation 1: The Deputy Commissioners for Services and Enforcement and Operations Support should request that the Disclosure Office, working with the IRS Office of Chief Counsel, produce a detailed but simple-to-understand list of information (to be attached to all pertinent IRMs as an Exhibit) so that IRS employees understand the type of information that must be provided to joint filing taxpayers seeking collection information, as well as what must not be provided, and include somewhere on the list that if employees still have questions they can contact the Disclosure Help Desk.

¹¹ IRM 5.19.1.2.2 (Jun. 30, 2017).



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Management's Response: The IRS partially agreed with this recommendation. The Collection function will prepare a list of the most common scenarios its employees encounter and will ask the Office of Chief Counsel and the Disclosure Office for guidance on what may or may not be disclosed in each scenario. The list will be thorough, but it will not be comprehensive as some situations cannot be predicted. The advice received from the Office of Chief Counsel will be provided to Collection function employees who handle these requests, and the Collection function will provide the information to other impacted organizations. Employees will be advised that if they still have questions, they can contact the Disclosure Help Desk.

Office of Audit Comment: The IRS has previously added common joint filer contact scenarios to the IRM, and although these scenarios are beneficial, they do not provide a quick reference for IRS employees. The employees must read through the various scenarios to identify one that might meet the situation of the taxpayer that they are trying to assist. We maintain that a simple list would be beneficial and that the list could include reference to scenarios that the employees can refer to if they need additional guidance.

Recommendation 2: The Deputy Commissioner for Services and Enforcement should require I.R.C. §§ 6103(e)(7) and (e)(8) training for all employees with taxpayer contact regarding balance due or collection issues to remind them of the requirements to disclose tax return and collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household.

Management's Response: The IRS partially agreed with this recommendation. The IRS stated that all employees with taxpayer contact regarding balance due and collection issues do not need this training. The IRS tailors training based on the type of work employees perform. However, it provides continuing professional education to employees, and the Collection function will continue to evaluate performance in this area when determining whether to include the topic in the curriculum of an upcoming continuing professional education in Fiscal Years 2020 and 2021.

Office of Audit Comment: Although Collection function employees are more likely to encounter taxpayers with these joint filer requests, any employee could have situations in which they need to respond to questions on a jointly filed return and should be aware of their obligations under the law. Therefore, we maintain that the IRS should provide training to all IRS employees with taxpayer contact regarding balance due or collection issues to help ensure that IRS employees are aware of what information they are required to provide to taxpayers under I.R.C. §§ 6103(e)(7) and (e)(8).



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Appendix I

Detailed Objective, Scope, and Methodology

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

- I. Contacted IRS management personnel in the Small Business/Self-Employed Division to determine if an IRS system or process has been implemented since our last review that tracks joint filer requests and the IRS's responses for collection information related to the requirements of I.R.C. § 6103(e)(8).
- II. Contacted the appropriate IRS and TIGTA Office of Investigations management personnel to determine if any systems or processes have been modified since our last review to track taxpayer complaints related to the requirements of I.R.C. § 6103(e)(8).
 - A. Contacted the appropriate National Taxpayer Advocate management personnel to determine if the Taxpayer Advocate Management Information System has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.
 - B. Contacted the appropriate IRS management personnel responsible for the E-TRAK system to determine if the E-TRAK system has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.¹
 - C. Contacted the appropriate Privacy, Governmental Liaison, and Disclosure Office management personnel to determine if the Automated Freedom of Information Act System has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.
- III. Received assistance from TIGTA's Applied Research and Technology group to identify a potential population of separated and/or divorced taxpayers with disclosure-related contacts in Fiscal Year 2018. We used a judgmental sample² because we could not readily identify the population of cases in which joint filers made such requests. We reviewed 91 ICS case histories to identify 30 sample cases and 74 AMS case histories to identify 30 sample cases that were directly related to the joint filer requests and

¹ The E-TRAK system is a web-based, Service-wide document tracking application that assists IRS leadership and business operating divisions with their ability to timely and effectively manage their responses to issues raised by taxpayers and to monitor internal correspondence.

² A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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determined the IRS's compliance with the requirements of I.R.C. §§ 6103(e)(7) and (e)(8).

- IV. Determined if Collection function employees have knowledge of the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8).
- A. Reviewed IRM sections used by Collection function employees for guidance on discussing collection activity.
 - B. Interviewed a judgmental sample of 15 Automated Collection System function contact representatives and 15 revenue officers to determine how they would respond to questions about collection activity on accounts of taxpayers who jointly filed a return, but are no longer married or no longer reside in the same household of the other taxpayer on the return.

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 that the following internal controls were relevant to our audit objective: documented procedures pertaining to requests under I.R.C. § 6103(e)(8). We evaluated these controls by reviewing AMS and ICS computer system history files and conducting interviews with Collection function personnel who receive these requests.



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Appendix II

Major Contributors to This Report

Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)

Phyllis Heald London, Director

Beverly Tamanaha, Audit Manager

Janis Zuika, Lead Auditor

Kevin B. Nielsen, Information Technology Specialist (Data Analytics)



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Appendix III

Report Distribution List

Deputy Commissioner for Operations Support
Deputy Commissioner for Services and Enforcement
Deputy Commissioner, Small Business/Self-Employed Division
Deputy Commissioner, Wage and Investment Division
Director, Accounts Management, Wage and Investment Division
Director, Campus Collection, Small Business/Self-Employed Division
Director, Collection, Small Business/Self-Employed Division
Director, Field Assistance, Wage and Investment Division
Director, Field Collection, Small Business/Self-Employed Division
Director, Headquarters Collection, Small Business/Self-Employed Division
Director, Enterprise Audit Management



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Appendix IV

*Recent Audit Reports Related
to This Statutory Review¹*

TIGTA, Ref. No. 2014-30-046, *Fiscal Year 2014 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (July 2014).

TIGTA, Ref. No. 2015-30-050, *Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns* (May 2015).

TIGTA, Ref. No. 2016-30-060, *Fiscal Year 2016 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2016).

TIGTA, Ref. No. 2017-30-058, *Fiscal Year 2017 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2017).

TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns* (July 2018).

¹ This list provides the most recent five of the 20 previous reports issued by TIGTA.



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Appendix V

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

August 19, 2019

MEMORANDUM FOR MICHAEL E. MCKENNEY *Mary Beth Murphy*
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Mary Beth Murphy
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2019 Statutory Review of
Disclosure of Collection Activities on Joint Returns (Audit
#201930003)

Thank you for the opportunity to review the subject draft report. TIGTA is required to annually review and certify the IRS's compliance with Internal Revenue Code (IRC) § 6103(e)(8), which requires the IRS, upon request, to disclose efforts to collect delinquent taxes on joint tax return liabilities to taxpayers who are no longer married or no longer reside in the same household, unless the disclosure would impair federal tax administration.

We recognize that taxpayers who are divorced or separated can be in a difficult position with respect to a tax debt on a joint return for which they remain liable. We are committed to helping them resolve their tax liabilities, including providing them the information we are authorized to disclose regarding our efforts to collect the delinquent tax. As a result of last year's TIGTA audit on this subject, we updated the Internal Revenue Manual (IRM) to provide Field Collection employees with more detail and examples of collection activity and mirrored account information that may be disclosed to a spouse or former spouse in this situation. (We provided similar guidance to Automated Collection System (ACS) employees in 2018). Also, the Wage & Investment and Taxpayer Advocate Service organizations updated their training modules on this topic and included examples with appropriate responses.

This year TIGTA reviewed a sample of IRS system case history files and interviewed a sample of employees from ACS and Field Collection about these procedures. TIGTA found that in some instances employees were not aware or had an incomplete understanding of the disclosure requirements for joint filer taxpayer contacts. TIGTA suggested the lack of a comprehensive list of what employees may disclose, and inconsistent training between the various organizations that provide collection information to taxpayers, may be contributing to employees' hesitation to disclose.



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We agree to prepare a list of common scenarios our employees encounter, and to ask our Counsel for guidance on what may or may not be disclosed in each scenario. The advice we receive from Counsel will be shared with impacted employees.

Additionally, as noted above, the Service has taken steps in recent years to promote awareness among its employees of IRC 6103(e)(8) requirements and procedures, and we believe that these measures will drive improvements in employees' awareness and understanding so that they disclose the appropriate information when they receive these requests. Employees in different organizations within the IRS have different training needs based on the type of work they do. We disagree with the recommendation that all employees with taxpayer contact regarding balance due or collection issues receive training on this topic. However, we provide continuing professional education (CPE) to our employees and will continue to evaluate our performance in this area when determining whether to include the topic in the curriculum of an upcoming CPE.

We will endeavor to provide good customer service and make appropriate disclosures of information when responding to requests from joint filers made under these sections of the IRC, while remaining mindful of our statutory obligation to protect the confidentiality of taxpayer data. Attached is a detailed response outlining our planned corrective actions. If you have any questions, please contact me, or Paul Mamo, Director, Collection Operations, Small Business/Self-Employed Division.

Attachment



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Attachment

RECOMMENDATION 1:

The Deputy Commissioners for Services and Enforcement and Operations Support should request that the Disclosure Office, working with the IRS Office of Chief Counsel, produce a detailed but simple-to-understand list of information (to be attached to all pertinent IRMs as an Exhibit) so that IRS employees understand the type of information that must be provided to joint filing taxpayers seeking collection information, as well as what must not be provided, and include somewhere on the list that if employees still have questions they can contact the Disclosure Help Desk.

CORRECTIVE ACTION:

We agree in part. Collection will prepare a list of the most common scenarios our employees encounter and will ask Counsel and Disclosure for guidance on what may or may not be disclosed in each scenario. The list will be thorough, but it will not be comprehensive as some situations cannot be predicted. The advice received from Counsel will be provided to Collection employees who handle these requests, and Collection will provide the information to other impacted organizations. Employees will be advised that if they still have questions, they can contact the Disclosure Help Desk.

IMPLEMENTATION DATE:

February 28, 2020

RESPONSIBLE OFFICIAL:

Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2:

The Deputy Commissioner for Services and Enforcement should require I.R.C. §§ 6103(e)(7) and (e)(8) training for all employees with taxpayer contact regarding balance due or collection issues to remind them of the requirements to disclose tax return and collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household.

CORRECTIVE ACTION:

We agree in part. All employees with taxpayer contact regarding balance due and collection issues do not need this training. IRS tailors training based on the type of work employees perform. However, we provide continuing professional education (CPE) to our employees and Collection will continue to evaluate our performance in this area when determining whether to include the topic in the curriculum of an upcoming CPE in FY 2020 and 2021.



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IMPLEMENTATION DATE:

October 15, 2020

RESPONSIBLE OFFICIALS:

Director, Field Collection Operations, Small Business/Self-Employed Division
Director, Collection Inventory Delivery & Selection, Small Business/Self-Employed
Division

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.