
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Office of Inspections and Evaluations



*Letter Report: Procedures to Protect
Taxpayer Information at Offer in
Compromise Public Inspection File
Locations Should Be Enhanced*

March 28, 2016

Reference Number: 2016-IE-R006

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.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

March 28, 2016

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

FROM: Gregory D. Kutz
Acting Deputy Inspector General for Inspections and Evaluations

SUBJECT: Final Letter Report – Procedures to Protect Taxpayer Information at
Offer in Compromise Public Inspection File Locations Should Be
Enhanced (# IE-15-019)

This report presents the results of our evaluation to determine whether the Internal Revenue Service's (IRS) Offer in Compromise (OIC) Program public inspection files properly protected Taxpayer Identification Numbers.

Synopsis

In summary, we found that ineffective redaction practices put sensitive, legally protected taxpayer information at risk. Specifically, files available for public review contained visible Social Security Numbers and Employer Identification Numbers.

The issues presented in this report have been discussed with the Director, Specialty Offers, Liens and Advisory, Small Business/Self-Employed Division. During the course of our fieldwork, we notified the appropriate IRS officials about the ineffective redactions that we identified. In response, the IRS temporarily removed the files from availability for public inspection in order to properly redact all files.

Recommendation

We are making no recommendations at this time because the IRS took immediate action. However, we intend to conduct follow-up work to determine whether the files have been properly redacted and whether further actions are necessary. In addition, we plan to issue a second report that will focus on the completeness of the files, the costs to administer the



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program, and any potential efficiencies or cost savings. We anticipate making recommendations in the subsequent report.

Response

The IRS stated that because public viewing requests are rare, the risk that sensitive taxpayer information was exposed is minimal. The IRS indicated that it is pursuing additional safeguards and enhancements of OIC public inspection file redaction procedures. Management's complete response to the draft report is included as Appendix IV.

Office of Inspections and Evaluations Comment

The Treasury Inspector General for Tax Administration agrees that there is limited opportunity for the disclosure of sensitive taxpayer information. However, each taxpayer has a right to expect that the IRS will protect their sensitive information in all circumstances. Our review showed the IRS did not adequately protect sensitive taxpayer information, even after it was brought to the attention of management during internal reviews. We believe that the IRS needs to be committed to safeguarding the identity of all taxpayers in administering all of its programs, whether large or small, high-profile or little known. Identity theft continues to be a serious and evolving issue which has a significant impact on tax administration.

If you have any questions about this report, you may contact me or Phil Shropshire, Director, Office of Inspections and Evaluations.



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Objective and Scope

Our overall objective was to determine whether accepted Offer in Compromise (OIC) Program files stored at the OIC public inspection file sites contain properly redacted Taxpayer Identification Numbers (TIN). To achieve this objective, we selected a statistically valid random sample of OIC public inspection files and reviewed them for proper TIN redaction.¹ The Internal Revenue Manual (IRM) states that at least 11 legally protected information items are to be redacted from OIC public inspection file cases prior to being made available for public inspection.² This includes Social Security Numbers (SSN), Employer Identification Numbers (EIN), house numbers and street addresses, adjusted gross income, and number of exemptions. Our review focused only on whether a TIN, *i.e.*, SSN or EIN, was visible in the files. However, because of the importance of the TIN to a taxpayer's identity, we documented all cases we identified with TINs during our site visits regardless of whether the case was in our statistically valid sample.

This evaluation was performed at OIC public inspection sites located in Laguna Niguel, California; Denver, Colorado; Plantation, Florida; Boston, Massachusetts; St. Paul, Minnesota; Freehold, New Jersey; Buffalo, New York; New York, New York; Pittsburgh, Pennsylvania; and Nashville, Tennessee. In addition, we performed this review at the Centralized OIC sites in Holtsville, New York, and Memphis, Tennessee, and at the Office of Governmental Liaison, Disclosure, and Safeguards in Houston, Texas. We performed our evaluation during the period of July to December 2015. We conducted this evaluation in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspection and Evaluation. Major contributors to the report are listed in Appendix I.

Background

An OIC is an agreement between a taxpayer and the Federal Government settling a tax liability for less than the full amount owed. Treasury regulations³ authorize the Internal Revenue Service (IRS) to settle a tax debt on one of three grounds: 1) doubt that the tax liability can be collected in full, 2) a verifiable doubt as to the amount owed, or 3) to promote effective tax administration.⁴ The objectives of the OIC Program are to:

¹ Only specific documents of an accepted OIC case file (Form 7249, *Offer Acceptance Report*, and sanitized transcripts) are available as part of the OIC public inspection file.

² IRM 5.8.8.6(6) (Jan. 1, 2015).

³ Treas. Reg. § 301.7122-1.

⁴ The IRS can accept an OIC under the concept of "effective tax administration" in situations where collection in full could be achieved but would cause the taxpayer economic hardship or inequitable treatment.



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- Facilitate collection of what can reasonably be collected at the earliest possible time and at the least cost to the Federal Government.
- Achieve a resolution that is in the best interests of both the taxpayer and the Federal Government.
- Provide the taxpayer with a fresh start toward future voluntary compliance with all filing and payment requirements.
- Secure revenue that may not be collected through any other means.

Requests for an OIC are submitted on Form 656, *Offer in Compromise*, and may require an application fee of \$186. Additionally, depending on the terms proposed and the applicant's income, the applicant may be required to submit a nonrefundable payment equal to 20 percent of the offer amount or make regular payments while the offer is under investigation. Small Business/Self-Employed (SB/SE) Division's Centralized OIC sites in Holtsville, New York, and Memphis, Tennessee, process initial offer receipts. Additionally, under certain circumstances, IRS Collection function field and Office of Appeals employees examine OICs. In Fiscal Year 2014, IRS records indicate that it accepted approximately 27,000 (40 percent) of the 68,000 OIC applications it received.

The reason OICs are available for public inspection goes back several decades. In the early 1950s, an IRS employee was indicted for taking bribes from taxpayers seeking to compromise their outstanding tax liabilities. A congressional investigation revealed that the IRS had accepted offers with generous terms from racketeers and politically connected individuals. In response to these scandals, on August 20, 1952, President Truman issued Executive Order 10386,⁵ directing the IRS to open for public inspection any accepted OIC. The Internal Revenue Code permits public inspection and copying of accepted OIC case files.⁶ An OIC public inspection file should contain two items: a copy of the redacted Form 7249, *Offer Acceptance Report*, and a sanitized account transcript. Once an OIC is accepted, the IRS creates a hard copy public inspection file which is shipped to one of 10 locations around the country based on the taxpayer's geographical residence. Figure 1 lists the current public inspection locations.

⁵ Exec. Order 10386, *Inspection of Files Covering Compromise Settlements of Tax Liability*, 17 FR 7685 (Aug. 22, 1952).

⁶ 26 U.S.C. § 6103(k)(1).



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Figure 1: Public Inspection File Locations

SB/SE Division's Collection Area Office	Taxpayer's Residence	File Location
Central	DC, DE, IN, KY, MD, OH, PA, TN, VA, WV	Pittsburgh, PA
Gulf States	AL, AR, LA, MS, OK, TX	Nashville, TN
Midwest	IA, IL, KS, MI, MN, MO, NE, ND, SD, WI	St. Paul, MN
North Atlantic	CT, MA, ME, NH, NJ, RI, VT	Boston, MA
North Atlantic	New York other than New York City	Buffalo, NY
North Atlantic	New Jersey	Freehold, NJ
North Atlantic	New York City and Surrounding Area	New York, NY
South Atlantic	FL, GA, NC, SC, PR, VI	Plantation, FL
Southwest	AZ, CA, HI, NM	Laguna Niguel, CA
Western	AK, CO, ID, MT, NV, OR, UT, WA, WY, INTL	Denver, CO

Source: IRS website and discussions with IRS personnel.

Records are available for one year from the date of the offer's execution.⁷ To view the files, individuals must call the IRS in advance and request an appointment. After one year, the public inspection file sites destroy the hard copy files.

Results of Review

We determined that ineffective redaction practices put sensitive, legally protected taxpayer information at risk. We reviewed a statistically valid sample of 300 (of the reported 28,028 accepted OICs between August 1, 2014, and July 31, 2015) OIC public inspection files and identified seven instances of redaction errors at the 10 public inspection sites. Our redaction review was limited to identifying visible TINs, *i.e.*, SSNs and EINs. Based on our statistical sample, we estimate that 654 (2.3 percent) of the 28,028 cases nationwide may contain SSNs or EINs not properly redacted.⁸

⁷ Treas. Reg. § 601.702 (d)(8) provides that for one year after the date of execution, a copy of Form 7249 for each accepted OIC with respect to any liability for a tax imposed by Title 26 shall be made available for inspection and copying.

⁸ The point estimate projection is based on a two-sided 95 percent confidence interval. We are 95 percent confident that between 177 and 1,131 case files contain visible SSNs or EINs. We calculated our sample using a 1.7 percent precision and 0.87 percent error rate as adjusted by the contract statistician.



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Outside of our sample, we identified and documented more than 300 other instances of visible TINs but did not review all cases for proper redaction. We provided the IRS with photographs of the redaction omissions and advised management to suspend public inspections until a full review could be completed. When sensitive information, including tax and other legally protected information, is disclosed, the IRS must report the incident using procedures developed by the Privacy, Governmental Liaison, and Disclosure (PGLD) office.⁹ In response, the SB/SE Division reported the incident to the PGLD office; however, the PGLD office determined that no taxpayer notification of the potential disclosures is necessary.¹⁰

Both the PGLD office and SB/SE Division have previously reviewed the public inspection files. An October 2015 report by the PGLD office found widespread redaction problems.¹¹ A review of 1,400 files found that approximately 29 percent of the cases contained redaction errors.¹² Specifically, the most frequent errors included:

- Release of the taxpayer's SSN or EIN.
- Release of address information.
- Release of information relative to the Power of Attorney.
- Redactions made with markers which left sensitive information visible in the public inspection file.

The October 2015 report is a follow-up to a July 2010 PGLD office report which found that 27 percent of cases contained redaction errors.

Since January 2010, the SB/SE Division performed 15 reviews at the same three public inspection sites (Laguna Niguel, California; Plantation, Florida; and Nashville, Tennessee) for adherence to standards. Overall, the reviews concluded that redactions generally occurred in accordance with IRM procedures. However, since January 2010, no SB/SE Division oversight reviews were performed at the other seven public inspection sites.

The Privacy Act of 1974¹³ states that no Federal Government agency shall disclose any record contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains. Internal Revenue Code Section 6103 protects the

⁹ The PGLD office is an independent business unit within the IRS that reports to the Deputy Commissioner for Operations Support. Specifically, the PGLD's Incident Management and Employee Protection office ensures that incidents involving the disclosure of Personally Identifiable Information are investigated, analyzed, and resolved.

¹⁰ The PGLD office has criteria for determining whether taxpayer notification of a potential disclosure is warranted. Our scope was limited to whether the PGLD office was notified of the disclosures.

¹¹ IRS, *Disclosure/Privacy Act Quality Review Report Fiscal Year 2015*, October 13, 2015.

¹² The PGLD office report reviewed adherence to all IRM criteria in Section 5.8.8.6(6). We focused only on visible SSNs and EINs.

¹³ 5 U.S.C. § 552a (2012).



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confidentiality of taxpayers' returns and return information. However, it does permit disclosure of accepted OIC files to members of the public.¹⁴

The IRM outlines procedures to protect sensitive taxpayer information.¹⁵ Specifically, it requires the employee who accepts the OIC to redact the following information:

- Obligor's SSN or EIN.
- Name and SSN of a co-obligor if not a party to the compromise.
- Address (house number and street name only).
- Filing status, Principal Industry Activity Code, number of exemptions, Power of Attorney/Tax Information authorization, and taxable and adjusted gross income.
- Transaction Codes with no dollar amounts and explanations dealing with fraud, negligence, or criminal investigations.

We determined that the redaction errors occurred for a number of reasons. First, IRS SB/SE Division Collection function employees use the Automated OIC system to conduct casework. When an offer is accepted, the system can automatically print a redacted Form 7249 and account transcript for the public inspection file. Our review found that the Automated OIC transcript is not always used. For example, Collection function and Office of Appeals employees may print documents from IRS systems without the automated redaction feature, then manually redact sensitive information using permanent markers or grease pencils or by printing black bars over information. Sometimes, the mark-over does not fully conceal the sensitive information. In other instances, employees overlook sensitive information resulting in visible TINs. Appendix III presents a visual description of common redaction errors the Treasury Inspector General for Tax Administration (TIGTA) identified.

Second, there is limited guidance for public inspection site employees who maintain the physical files. During our interviews, employees at the sites expressed confusion about the ultimate responsibility for the files. We found site employees often perform additional redaction when the case files are received from the original examiner, but the level of effort differs across locations. Although not required, some sites thoroughly review the entire case, while others perform a cursory examination. If extensive redaction is necessary, locations may return the file to the original examiner or even reprint the case with updated redactions.

The PGLD office identified concerns with public inspection files at least as far back as July 2010 and distributed the results to all responsible IRS functions.

¹⁴ Internal Revenue Code § 6103 (k)(1).

¹⁵ IRM 5.8.8.6(6) (Jan. 1, 2015).



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During our visits, we found that most locations do not track the frequency of visitors or the files viewed. At some locations, the IRS provided historical visitor information from memory but could not verify with supporting documentation. Based on these recollections, we conclude that visits to OIC public inspection sites are infrequent. Some public inspection sites recalled receiving one or two visitors per year, while other sites recalled having no visitors over the past several years.

As part of this review, TIGTA requested that the public inspection sites record the number of visitors they received during an approximately three-month period. All 10 sites reported that they received no visitors between August 10, 2015, and October 31, 2015. The IRS does not require the public inspection sites to document visitors to the sites. Therefore, because there were no internal controls at the public inspection sites, we could not determine the extent of potential unauthorized disclosures or identity theft that may have occurred.

Identity theft continues to be a serious and growing problem that has a significant impact on tax administration. The SSN is the most valuable item of personal data an identity thief can obtain and becomes even more valuable if linked to other personal data. However, continued ineffective redaction practices at the public inspection sites expose sensitive taxpayer information to the risk of unauthorized disclosure, put taxpayers at risk of identity theft, and increase the reputational risk to the IRS.

Conclusion

Based on the significance of our findings surrounding potential disclosure of sensitive, legally protected taxpayer information, we immediately notified the IRS of the redaction problems. During the course of our fieldwork, we notified the appropriate IRS officials about the ineffective redactions that we identified. In response, the IRS immediately removed the files from availability for public inspection in order to properly redact all files. The IRS indicated that only after a physical review is completed of all files will they be made available again for public viewing. Because the IRS took immediate action in response to the issues we raised, we are not making any recommendations in this report. However, we intend to conduct follow-up work to determine whether the files have been properly redacted and whether any further actions are necessary. In addition, we plan to issue a second report that will focus on the completeness of the files, the costs to administer the program, and any potential efficiencies or cost savings. We anticipate making recommendations in the subsequent report.



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Appendix I

Major Contributors to This Report

Gregory D. Kutz, Acting Deputy Inspector General for Inspections and Evaluations
Phil Shropshire, Director, Inspections and Evaluations/Special Tax Matters
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Appendix II

Report Distribution List

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Appendix III

*Examples of Redaction Problems
Identified by TIGTA*

The following examples illustrate the various types of redaction problems identified by TIGTA at the public inspection sites. These problems were caused primarily by IRS employees attempting to manually redact sensitive information using permanent markers or grease pencils or by printing black bars over information. TIGTA found that sometimes the redaction marks did not fully conceal the sensitive information. In other instances, employees overlooked sensitive information, resulting in visible TINs.

Figure 1: Form 7249, Offer Acceptance Report, With a Visible TIN

OFFER ACCEPTANCE REPORT			
Taxpayer Name: TIGTA Example		Employer Identification Number	
Taxpayer Address: 123 Main Street Washington DC		Social Security Number 123-45-6789	
Liability Description			
Type of Tax	Taxable Period	Date Assessed	Balance as of _____ (See attached transcript(s).)
1040	201512		

Source: Example generated by TIGTA based on observations at the public inspection sites.



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**Figure 2: Form 7249, Offer Acceptance Report,
With the TIN Visible Through the Attempted Redaction**

OFFER ACCEPTANCE REPORT			
Taxpayer Name: TIGTA Example		Employer Identification Number	
Taxpayer Address: 123 Main Street Washington DC		Social Security Number 123-45-6789	
Liability Description			
Type of Tax	Taxable Period	Date Assessed	Balance as of _____ (See attached transcript(s).)
1040	201512		

Source: Example generated by TIGTA based on observations at the public inspection sites.

**Figure 3: Form 7249, Offer Acceptance Report,
With the Redacted TIN Manually Added to the File**

OFFER ACCEPTANCE REPORT			
Taxpayer Name: TIGTA Example		Employer Identification Number	
Taxpayer Address: Washington DC		Social Security Number	
Liability Description			
Type of Tax	Taxable Period	Date Assessed	Balance as of _____ (See attached transcript(s).)
1040	201512		

Source: Example generated by TIGTA based on observations at the public inspection sites.



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**Figure 4: Form 7249, Offer Acceptance Report,
With the Last Four Digits of the TIN Visible**

OFFER ACCEPTANCE REPORT			
Taxpayer Name: TIGTA Example		Employer Identification Number	
Taxpayer Address: 123 Main Street Washington DC		Social Security Number *****6789	
Liability Description			
Type of Tax	Taxable Period	Date Assessed	Balance as of _____ (See attached transcript(s).)
1040	201512		

Source: Example generated by TIGTA based on observations at the public inspection sites.

**Figure 5: Form 7249, Offer Acceptance Report,
With the TIN Visible Through Ballpoint Pen Redaction**

OFFER ACCEPTANCE REPORT			
Taxpayer Name: TIGTA Example		Employer Identification Number	
Taxpayer Address: 123 Main Street Washington DC		Social Security Number 123 45 6789	
Liability Description			
Type of Tax	Taxable Period	Date Assessed	Balance as of _____ (See attached transcript(s).)
1040	201512		

Source: Example generated by TIGTA based on observations at the public inspection sites.



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Figure 6: Taxpayer Account Transcript With Visible TIN

Account Transcript for: TIGTA Example

Request Date: 12/31/2015
Response Date: 12/31/2015
Tracking Number: *****

FORM NUMBER: 1040

TAX PERIOD: Dec. 31, 2015

TAXPAYER IDENTIFICATION NUMBER: 123-45-6789

SPOUSE TAXPAYER IDENTIFICATION NUMBER: 123-45-6789

Transaction Code

670	Payment
670	Payment
670	Payment
672	Removed payment
	CIVIL PENALTY 201501
	123-45-6789

Visible SSN on transcript

Source: Example generated by TIGTA based on observations at the public inspection sites.



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Appendix IV


Management's Response to the Draft Report



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

FEB 23 2016

MEMORANDUM FOR GREGORY D KUTZ
ACTING DEPUTY INSPECTOR GENERAL FOR
INSPECTIONS AND EVALUATIONS

FROM: Karen Schiller 
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Letter Report -- Procedures to Protect Taxpayer
Information at Offer in Compromise Public Inspection File
Locations Should Be Enhanced (#IE-15-019)

Thank you for the opportunity to review the subject draft report which evaluated the IRS' program for public inspection of Offers in Compromise (OIC). An OIC is an agreement between a taxpayer and the Federal Government settling a tax liability for less than the full amount owed. To comply with the provisions of IRC 6103(k)(1), the IRS maintains public inspection files for every accepted OIC for a one year period. The public inspection file is comprised of a redacted Form 7249, *Offer Acceptance Report*, and a redacted account transcript for each period of liability.

Not surprisingly, public viewing requests for these files are very rare. While there is no statutory or regulatory requirement to track the frequency of visitors or the files reviewed, at TIGTA's request, we monitored requests to view the public inspection OIC files at all designated public inspection sites from August 10, 2015 to October 31, 2015. At the end of the monitoring period, there had been no visitors who viewed the files.

Your investigation revealed instances in which certain taxpayer information had not been fully redacted from the public inspection file. When TIGTA alerted IRS to this issue, the IRS immediately removed the files from availability for public inspection until the required redactions were completed. Because the IRS took immediate action to address the issues, TIGTA made no recommendations in its report. Also, we note that given the rarity of public viewing requests for this information, the risk of exposure is minimal. Indeed, the IRS' Incident Management operation reviewed the circumstances of accesses and determined that the likelihood of identity theft or other harm was very low; and, as such, did not necessitate taxpayer notification.

We are pursuing additional safeguards and enhancements with respect to our redaction procedures. One option under consideration is to load required documents to an internal website controlled by a gatekeeper who would conduct a secondary redaction



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review. Also, because many redaction errors appear on the account transcripts, we are working on programming which would print only the specific information required by law and eliminate the use of account transcripts.

We appreciate your continued support and insight as we work to enhance the protections around this process, allowing us to meet the requirement to make these files available to the public, while still protecting the integrity of taxpayers' personal information. If you have any questions, you may contact Scott Prentky, Director, Collection, Small Business/Self-Employed Division at (954) 423-7318.



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