

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations**

September 8, 2020

Reference Number: 2020-30-057

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This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

**Redaction Legend:**

1 = Tax Return/Return Information

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# HIGHLIGHTS: Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations



Final Audit Report issued on September 8, 2020  
Reference Number 2020-30-057

## Why TIGTA Did This Audit

This audit was initiated because Congress enacted the prohibition against Illegal Tax Protester designations due to a concern that some taxpayers were being permanently labeled as Illegal Tax Protesters even though they had subsequently become compliant with the tax laws. TIGTA is required to annually evaluate IRS compliance with the prohibition against using Illegal Tax Protester or similar designations.

The purpose of this audit was to determine whether the IRS complied with IRS Restructuring and Reform Act of 1998 (RRA 98) Section 3707 and its own internal guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations.

## Impact on Taxpayers

Congress enacted RRA 98 Section 3707 to prohibit the IRS from labeling taxpayers as Illegal Tax Protesters or any similar designations. Using Illegal Tax Protester or other similar designations may stigmatize taxpayers and may cause employee bias in future contacts with these taxpayers.

## What TIGTA Found

Prior to enactment of the RRA 98, the IRS used Illegal Tax Protester indicators on the Individual Master File to accelerate enforcement activity for taxpayers whose tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments repeatedly rejected by the courts. Section 3707 of the RRA 98 required the IRS to remove the existing Illegal Tax Protester designations from taxpayers' accounts on the Individual Master File beginning January 1, 1999. TIGTA's review of taxpayer accounts on both the Individual and Business Master Files showed that the IRS did not reintroduce past Illegal Tax Protester codes or similar designations on taxpayer accounts during Fiscal Year 2019.

However, TIGTA's review of 2 million records from cases closed during Fiscal Year 2019 in the Correspondence Examination Automation Support system identified 18 instances of the use of Illegal Tax Protester or similar designations on 13 taxpayers' accounts.

Additionally, in reviewing the narrative data entered for approximately 1.8 million records in the Accounts Management Services system with cases closed in Fiscal Year 2019, TIGTA found seven instances in which five taxpayers were referred to as Illegal Tax Protester or similar designations. After TIGTA brought these cases to management's attention, the Wage and Investment Division issued an alert on June 15, 2020, to all IRS employees as a reminder not to use Illegal Tax Protester or similar designations when referring to a taxpayer, including in case files and e-mail.

TIGTA's review of more than 545,000 records from cases with history entries during Fiscal Year 2019 in the Integrated Collection System identified no improper uses of Illegal Tax Protester or similar designations. TIGTA also determined that alternative methods are in place to address tax compliance issues with taxpayers who protest the legality of income taxes which do not use the Illegal Tax Protester terminology.

## What TIGTA Recommended

TIGTA recommended that the Commissioner, Small Business/Self-Employed Division, should emphasize to all employees with access to the Correspondence Examination Automation Support system the importance of compliance with RRA 98 Section 3707 and reinforce that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations.

IRS management agreed with this recommendation and plans to publish an article in the Technical Digest emphasizing the importance of not referring to any taxpayer as an Illegal Tax Protester or any similar designation to maintain compliance with the RRA 98 and the Internal Revenue Manual.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

September 8, 2020

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations (Audit # 202030020)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with the IRS Restructuring and Reform Act of 1998 (RRA 98) Section 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations. The Treasury Inspector General for Tax Administration is required under Internal Revenue Code Section 7803(d)(1)(A)(v) to annually evaluate the IRS's compliance with the provisions of RRA 98 Section 3707. This audit is included in our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendation. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



# Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

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## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

### Background

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section (§) 3707 prohibits the IRS from using Illegal Tax Protester or any similar designations.<sup>1</sup> In addition, the law requires the removal of all existing Illegal Tax Protester codes from the Master File and instructs IRS employees to disregard any such designation located on databases other than the Individual Master File.<sup>2</sup>

Prior to enactment of the RRA 98, the IRS used the Illegal Tax Protester Program to identify individuals and businesses that were using methods that were not legally valid to protest the tax laws. IRS employees identified taxpayers for referral to the Program when their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. There were tax protester coordinators who were responsible for determining whether a taxpayer should be included in the Illegal Tax Protester Program. If a taxpayer was classified as an Illegal Tax Protester, the taxpayer's record was coded as such on the Individual Master File. Once a taxpayer's account was coded, certain tax enforcement actions were accelerated. The designation was also intended to alert employees to be cautious so they would not be drawn into confrontations with taxpayers.

**TIGTA is required to annually evaluate the IRS's compliance with the prohibition against using Illegal Tax Protester or any similar designations.**

Congress was concerned that some taxpayers were being permanently labeled and stigmatized by the Illegal Tax Protester designation. The concern was that this label could bias IRS employees and result in unfair treatment of the taxpayer. Internal Revenue Code § 7803(d)(1)(A)(v) requires the Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate the IRS's compliance with the prohibition against using the Illegal Tax Protester or any similar designations. This is our twenty-second review since Fiscal Year (FY) 1999. These reviews have identified areas for improvement to help the IRS comply with the Illegal Tax Protester designation prohibition.<sup>3</sup>

To conduct this audit, TIGTA reviews the Individual Master File and related systems annually, as required by the RRA 98; each year TIGTA also selects other IRS systems for review on a rotating basis. This year we focused on the Accounts Management Services (AMS) system, the Integrated Collection System (ICS), and the Correspondence Examination Automation Support (CEAS) system. IRS employees document notes as they are working taxpayer cases. We reviewed the notes stored within these systems to determine whether employees were in compliance with the RRA 98.

<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>2</sup> See Appendix IV for a glossary of terms.

<sup>3</sup> See Appendix II for a list of the five prior reports.



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

### Results of Review

#### Illegal Tax Protester Codes Were Not Used on the Individual Master File

Prior to enactment of the RRA 98, the IRS used Illegal Tax Protester indicators on the Individual Master File to accelerate enforcement activity for taxpayers whose tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments repeatedly rejected by the courts. These indicators were also intended to alert employees to be cautious and that they might encounter problems when dealing with specific nonfilers and delinquent taxpayers.

Congress was concerned about the use of the Illegal Tax Protester designation because:

- Taxpayers were labeled as Illegal Tax Protesters without regard to their filing obligations or compliance.
- Illegal Tax Protester indicators were not always reversed when taxpayers became compliant with their tax obligations.

Section 3707 of the RRA 98 required the IRS to remove the existing Illegal Tax Protester designations from taxpayers' accounts on the Individual Master File beginning January 1, 1999.

In prior reviews, TIGTA reported that the IRS had removed these designation codes from the Individual Master File as required by the law. We reviewed the Individual and Business Master Files for taxpayer records coded for accelerated collection activity during FY 2019. These codes, along with an Illegal Tax Protester secondary code, were used to identify Illegal Tax Protesters prior to the RRA 98. We found no accelerated collection activity records on the Individual Master File and approximately 1,130 accelerated collection activity records on the Business Master File. Of these, none had the Illegal Tax Protester secondary code. The law also prohibits using any designation similar to Illegal Tax Protester. We reviewed all of the current Individual Master File transaction codes and did not identify any similar designations.

#### Employees Used Illegal Tax Protester or Similar Designations in Some Case Narratives or Case Review Comments

Our review of IRS records included data from the AMS system, which incorporates information from 22 different IRS functions and may be accessed by more than 33,000 users. We also reviewed data from the CEAS system, which is used by the Field Examination and Correspondence Examination functions and has approximately 10,900 users, as well as data from the ICS, which is used by the Field Collection function and has approximately 5,000 users.

Overall, our review found 18 instances (13 taxpayers) of Illegal Tax Protester or similar designations in the CEAS system. By reviewing the CEAS system, a program that we have not audited for this purpose in four years and which previously had improper uses of Illegal Tax Protester or similar designations, we identified a higher number of instances than in the past. We also identified seven instances (five employees) of the use of Illegal Tax Protester designations within the AMS system.



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

### Some improper designations were identified in the CEAS system

We analyzed all CEAS system records for cases that were closed during FY 2019 by searching for Illegal Tax Protester or similar designations in the case documentation. From the population of more than 2 million records, we identified almost 800 records with one or more potential improper terms. We reviewed these records and found 18 instances of Illegal Tax Protester or similar designations being used improperly on 13 taxpayers' cases.

IRS management disagreed, stating that the examiners did not violate RRA 98 § 3707 because the Illegal Tax Protester language was not used on the Master File; however, they agreed that in half of the cases, Internal Revenue Manual (IRM) guidance was not followed. The tax examiners who worked the cases were not familiar with the IRM and have been made aware of the proper actions outlined in the IRM.<sup>4</sup>

The statute states that "officers and employees of the Internal Revenue Service shall not designate taxpayers as Illegal Tax Protesters (or any similar designation)." It further specifies that existing designations in the Master File must be removed and any other designations made before the effective date of the statute, such as those on paper records that have been archived, must be disregarded. Senate Committee on Finance Report 105-174 (dated April 22, 1998), related to the RRA 98 § 3707 provision, stated the Committee was concerned that taxpayers might be stigmatized by a designation as an "Illegal Tax Protester."

IRS management stated that it continues to disagree with TIGTA's determination that including "tax protester" or a similar phrase in a CEAS system record constitutes an official "designation" that violates RRA 98 § 3707. However, the IRS agrees that employees should refrain from the use of such terms when referring to taxpayers. Based upon the language of the statute and the Senate Committee Report, TIGTA believes IRS officers and employees should not label taxpayers as Illegal Tax Protesters or other similar designations in any records, which include paper and electronic records. Officers and employees should not designate taxpayers as such because a designation alone contains a negative connotation and may label or stigmatize the taxpayer.

The CEAS system was last reviewed during our FY 2016 audit in which we found seven instances, out of more than 63,000 records, in which employees improperly labeled taxpayers as an Illegal Tax Protester or other similar designation, as prohibited by law.<sup>5</sup> As a result, we recommended that the IRS emphasize to all Examination function employees the importance of compliance with RRA 98 § 3707 and reinforce that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations. IRS management agreed with this recommendation and updated IRM section 4.10.1, *Examination of Returns – Overview and Basic Examiner Responsibilities*.<sup>6</sup>

<sup>4</sup> IRM 4.10.1.2.2(1) was revised and published on August 24, 2017, to include additional language stating: "Section 3707 – prohibits the Service from designating taxpayers as "illegal tax protesters" (or any similar designation). Examiners must not refer to the taxpayer as an "illegal tax protester" (or any similar designation) anywhere in the case file, including on the activity record (e.g., Form 9984), lead sheets, workpapers, reports, etc. Terms such as "frivolous argument" or "tax avoidance argument" are acceptable to use. See IRM 25.4, Employee Protection, for further information."

<sup>5</sup> TIGTA, Ref. No. 2016-30-087, *Fiscal Year 2016 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Sept. 2016).

<sup>6</sup> IRM 4.10.1.2.2, *IRS Restructuring and Reform Act of 1998 (RRA 98)* (Aug. 24, 2017).



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### Some improper designations were identified in the AMS system

We also analyzed the AMS system, consisting of more than 1.78 million records, for use of Illegal Tax Protester and other similar designations in the employee case narrative that were closed in FY 2019. We identified seven uses of Illegal Tax Protester or similar designations in the AMS system by five separate employees. Although the improper designations were identified in the AMS system, the narratives included references from employees in different functions. Figure 1 provides details on the functions with identified exceptions.

**Figure 1: Source of Improper Designations in the AMS System**

IRS Function	Designations
Automated Collection System	* 1*
Identity Theft Victim Assistance	* 1*
Compliance Services Collection Operations	* 1*
Field Assistance	* 1*
<b>Total</b>	<b>7</b>

Source: TIGTA analysis of AMS system case narratives.

Overall, the number of employees we have identified as improperly labeling taxpayers within the AMS system has declined slightly. In our FY 2019 review, we identified six employees improperly labeling six taxpayers.<sup>7</sup> Previously, we identified nine employees during both our FY 2018 and FY 2017 reviews.<sup>8</sup> Although only five employees improperly labeled taxpayers within the AMS system, a few of these employees improperly labeled multiple taxpayers.

The last time we made a recommendation for the AMS system was in our FY 2017 report in which we recommended that the IRS emphasize the importance of complying with RRA 98 § 3707 when using the AMS system. In response to this recommendation, IRS management stated that they had emphasized to all employees with access to the AMS system the importance of compliance with § 3707 and reinforced that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations. Therefore, we did not make a recommendation in our FY 2018 and FY 2019 reviews.

IRS management stated that in all of these cases the employee should not have referred to the taxpayers as tax protesters. However, we continue to see these errors. Employees are continuing to use the Illegal Tax Protester designation both in the AMS system and in the CEAS system.

**Management Action:** After we brought these AMS system cases to management's attention, the Wage and Investment Division issued an alert on June 15, 2020, to all IRS employees as a

<sup>7</sup> TIGTA, Ref. No. 2019-30-045, *Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (July 2019).

<sup>8</sup> TIGTA, Ref. No. 2018-30-056, *Fiscal Year 2018 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2018), and TIGTA, Ref. No. 2017-30-059, *Fiscal Year 2017 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2017).



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

reminder not to use Illegal Tax Protester or similar designations when referring to a taxpayer, including in case files and e-mail. As a result, we will not be making a recommendation for AMS system employees.

### No improper designations were identified in the ICS

Our analysis of more than 545,000 records from the ICS cases with history in FY 2019 identified no improper uses of Illegal Tax Protester or similar designations.

During our FY 2013 audit, we reviewed the ICS and found 15 instances in which 12 employees used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.<sup>9</sup> However, more recently, during our FY 2017 audit, we reviewed the ICS and found no instances in which employees improperly labeled taxpayers as an Illegal Tax Protester or other similar designation.<sup>10</sup>

As prohibited by RRA 98 § 3707, IRS employees should not label taxpayers as Illegal Tax Protesters or other similar designations in any records, which include paper and electronic records. Employees should not designate taxpayers as such because a designation alone contains a negative connotation and appears to label the taxpayer. It is important that the IRS ensure that management personnel are aware of these prohibitions to ensure that inappropriate designations are not perpetuated and to decrease the chances that they may influence the objectivity of other employees.

**Recommendation 1:** The Commissioner, Small Business/Self-Employed Division, should emphasize to all employees with access to the CEAS system the importance of compliance with RRA 98 § 3707 and reinforce that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations. This may include, but is not limited to, updating procedures, issuing a memorandum, or adding a module to an existing training course.

**Management's Response:** IRS management agreed with this recommendation and will publish an article in the Technical Digest emphasizing to their examiners the importance of not referring to any taxpayer as an Illegal Tax Protester or any other similar designation to maintain compliance with the RRA 98 and IRM 4.10.1.2.2.

### Alternative Methods Are in Place to Address Tax Compliance Issues With Taxpayers Who Protest the Legality of Income Taxes

Some taxpayers engage in certain behaviors to delay or obstruct the tax administration process. The IRS must address these behaviors through enforcement actions. For example, some taxpayers submit frivolous tax returns or make other frivolous submissions as part of their attempt to avoid their tax obligations. Other taxpayers do not file tax returns as required, and some taxpayers make threats against IRS employees. The IRS has programs to identify and address these situations. These include:

<sup>9</sup> TIGTA, Ref. No. 2013-30-085, *Fiscal Year 2013 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2013).

<sup>10</sup> TIGTA, Ref. No. 2017-30-059, *Fiscal Year 2017 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2017).



## **Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations**

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- The Frivolous Return Program that handles taxpayers who file tax returns based on some type of frivolous argument that justifies payment of little or no income tax. This includes filing a tax return that claims no income using the rationale that paying taxes is voluntary or the taxpayer claims to be a citizen of a State but not a citizen of the United States.<sup>11</sup>
- The Nonfiler Program that handles taxpayers who fail to file their required tax returns.
- The Potentially Dangerous Taxpayer/Caution Upon Contact Program that handles taxpayers who have assaulted or threatened IRS employees.

These programs address specific taxpayer behavior with appropriate enforcement actions, and the terminology associated with the taxpayer behavior is not assigned to the taxpayers on a permanent basis. We interviewed IRS employees from each of these programs and found that the programs in place are in compliance with the RRA 98 and do not designate taxpayers as Illegal Tax Protesters or similar designations.

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<sup>11</sup> Internal Revenue Code § 6702.



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

# Appendix I

## Detailed Objective, Scope, and Methodology

The overall objective was to determine whether the IRS complied with RRA 98 Section (§) 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations. To accomplish our objective, we:

- Determined whether the IRS Master File is free of Illegal Tax Protester designations as required by the RRA 98 and has not reassigned a new coding to refer to Illegal Tax Protester taxpayers. We analyzed the population of 1,132 Master File records that had been coded for accelerated collection activity during FY 2019.<sup>1</sup>
- Determined whether the IRS is using any Frivolous Return Program codes as replacements for Illegal Tax Protester designations by reviewing guidance provided for the Frivolous Return Program and interviewing the Program Coordinator.
- Determined whether the IRS is using any Potentially Dangerous Taxpayer or Caution Upon Contact codes as replacements for Illegal Tax Protester designations by reviewing guidance provided for the Potentially Dangerous Taxpayer and Caution Upon Contact Programs and interviewing the Program Analyst.
- Determined whether the IRS's Nonfiler Program is in compliance with the provisions established by RRA 98 § 3707(b) by reviewing guidance provided for the Nonfiler Program and interviewing the Program Coordinator.
- Determined whether the IRS's AMS system was free of Illegal Tax Protester designations as required by the RRA 98 and did not contain new coding to refer to Illegal Taxpayer Protester taxpayers. We obtained and reviewed a population of 1,784,028 records with histories during FY 2019 and that had potential Illegal Tax Protester or similar designation character strings.
- Determined whether the IRS's ICS was free of Illegal Tax Protester designations as required by the RRA 98 and did not contain new coding to refer to Illegal Tax Protester taxpayers. We obtained and reviewed a population of 545,447 records with histories during FY 2019 and that had potential Illegal Tax Protester or similar designation character strings.
- Determined whether IRS employees were using Illegal Tax Protester or any similar designation or reference within the CEAS system tax return case history narratives and related examination case documents. We obtained and reviewed a population of 2,044,576 records with histories during FY 2019 and that had potential Illegal Tax Protester or similar designation character strings.

### Performance of This Review

This review was performed with information obtained from electronic files accessed through the TIGTA network as well as the Small Business/Self-Employed Division located in

<sup>1</sup> A Transaction Code 148 causes the accelerated issuance of a Taxpayer Delinquency Investigation or Taxpayer Delinquent Account.



## **Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations**

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New Carrollton, Maryland, and the Wage and Investment Division located in Atlanta, Georgia, during the period November 2019 through July 2020. 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.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Phyllis Heald London, Director; Autumn Macik, Audit Manager; Marcus Sloan, Lead Auditor; and Johnathan Elder, Information Technology Specialist (Data Analytics).

### **Validity and Reliability of Data From Computer-Based Systems**

We performed tests to assess the reliability of data from the Individual Master File, the Business Master File, the AMS system, the CEAS system, and the ICS. We evaluated the data by 1) performing electronic testing of required data elements, 2) reviewing existing information about the data and the system that produced them, and 3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of 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 that the following internal controls were relevant to our audit objective: controls that ensure the reliability of the data used for our analysis. During our review, we tested the validity of the data used for our analyses against selected IRS data, but we did not perform any specific testing of data input controls because systems are not in place to prevent employees from using these designations.



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

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### Appendix II

#### Recent Audit Reports Related to This Statutory Review

TIGTA, Ref. No. 2015-30-067, *Fiscal Year 2015 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2015).

TIGTA, Ref. No. 2016-30-087, *Fiscal Year 2016 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Sept. 2016).

TIGTA, Ref. No. 2017-30-059, *Fiscal Year 2017 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2017).

TIGTA, Ref. No. 2018-30-056, *Fiscal Year 2018 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2018).

TIGTA, Ref. No. 2019-30-045, *Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (July 2019).



**Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines  
Prohibiting the Use of Illegal Tax Protester and Similar Designations**

**Appendix III**

**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 24, 2020

MEMORANDUM FOR MICHAEL E. McKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Eric C. Hylton **Eric C. Hylton** Digitally signed by Eric C. Hylton  
Date: 2020.08.24 09:36:52 -04'00'  
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report - Fiscal Year 2020 Statutory Audit of  
Compliance With Legal Guidelines Prohibiting the Use of Illegal  
Tax Protester and Similar Designations (Audit # 202030020)

Thank you for the opportunity to review and comment on the subject draft audit report. The IRS Restructuring and Reform Act of 1998 (RRA 98) prohibits IRS employees from designating taxpayers as illegal tax protesters or any similar designations. Your report acknowledges that, in certain circumstances, the IRS has a legitimate purpose in designating certain taxpayer behavior and has compliance programs to address this behavior, such as our Frivolous Return, Nonfiler, and Potentially Dangerous Taxpayer/Caution Upon Contact compliance programs.

Your report supports that we do not use illegal tax protester designations on taxpayer accounts. You determined there was a 0.00065% exception rate by identifying that 13 taxpayer case files, of the 2,000,000 reviewed, included one of these designations. We disagree with your assertion that using these terms in a case file narrative violates RRA 98. The narrative included with a case file does not transfer to any IRS database, and terms used within case file notes should not be categorized as official designations. However, we will continue to reinforce to our employees the importance of not referring to taxpayers using these terms.

Attached is a detailed response outlining our corrective action to address your recommendation. If you have any questions, please contact me or Scott Irick, Director, Examination Operations, Small Business/Self-Employed Division.

Attachment



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

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Attachment

**Recommendation 1:**

The Commissioner, Small Business/Self-Employed Division, should emphasize to all employees with access to the CEAS system the importance of compliance with RRA 98 § 3707 and reinforce that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations. This may include, but is not limited to, updating procedures, issuing a memorandum, or adding a module to an existing training course.

**Corrective Action:**

We will publish an article in the Technical Digest emphasizing to our examiners the importance of not referring to any taxpayer as an illegal tax protester or any other similar designation to maintain compliance with RRA 98 and Internal Revenue Manual (IRM) § 4.10.1.2.2.

**Implementation Date:**

April 15, 2021

**Responsible Official:**

Director, Examination, Field and Campus 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.



**Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines  
Prohibiting the Use of Illegal Tax Protester and Similar Designations**

**Appendix IV**

**Glossary of Terms**

<b>Term</b>	<b>Definition</b>
Accounts Management	Employees responsible for taxpayer relations by answering tax law/account inquiries, adjusting tax accounts, providing taxpayers with information on the status of their returns/refunds, and resolving the majority of issues and questions to settle their accounts.
Accounts Management Services	A web-based system that 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.
Business Master File	The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
Correspondence Examination Automation Support	A suite of web-based applications developed to enhance the campus examination process. CEAS system applications satisfy Report Generation Software Client and Batch requests to store/retrieve examination cases to/from the CEAS system centralized database.
Fiscal Year	A yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Individual Master File	The IRS database that maintains transactions or records of individual tax accounts.
Integrated Collection System	An information management system designed to improve revenue collections by providing revenue officers access to the most current taxpayer information, while in the field, using laptop computers for quicker case resolution and improved customer service.
Integrated Data Retrieval System	A computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.
Internal Revenue Code	Federal tax law enacted by Congress in Title 26 of the United States Code.
Master File	The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.
Taxpayer Delinquency Investigation	An unfiled tax return for a taxpayer. One Taxpayer Delinquency Investigation exists for all unfiled tax periods for a specific taxpayer.
Taxpayer Delinquent Account	A balance due account of a taxpayer. A separate Taxpayer Delinquent Account exists for each balance due tax period.
Transaction Code	A three-digit code used to identify actions being taken on a taxpayer's account.



## Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations

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### Appendix V

#### Abbreviations

AMS	Accounts Management Services
CEAS	Correspondence Examination Automation Support
FY	Fiscal Year
ICS	Integrated Collection System
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration