

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2022 Mandatory Review of Compliance With the Freedom of Information Act

July 28, 2022

Report Number: 2022-10-044

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

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HIGHLIGHTS: Fiscal Year 2022 Mandatory Review of Compliance With the Freedom of Information Act

Final Audit Report issued on July 28, 2022

Report Number 2022-10-044

Why TIGTA Did This Audit

The overall objective of this audit was to determine whether the IRS improperly withheld information requested by taxpayers in writing based on the Freedom of Information Act (FOIA) exemption 5 United States Code (U.S.C.) § 552(b)(7) or Internal Revenue Code (I.R.C.) § 6103 or by replying that responsive records were not available or did not exist. TIGTA is required to conduct periodic audits in this area and report the results to Congress.

Impact on Tax Administration

Taxpayers may request information from the IRS through the FOIA. However, a section of the FOIA, 5 U.S.C. § 552(b)(7), allows certain records or information compiled for law enforcement purposes to be withheld. Taxpayers may also request information from the IRS through I.R.C. § 6103(c) and (e). While I.R.C. § 6103 protects the confidentiality of taxpayer returns and return information, it does allow the taxpayer, or a person designated by the taxpayer, to request and receive tax return and return information. If the IRS does not process requests under these statutes correctly, taxpayers do not receive the information to which they are entitled.

What TIGTA Found

In May 2021, the IRS completed the transition of processing cases from the Automated Freedom of Information Act System to FOIAXpress. TIGTA reviewed a statistical sample of 83 of the 3,188 Fiscal Year 2021 FOIA requests for which the IRS denied the requested information either partially or fully based on exemption (b)(7), replied that no responsive records were available, or closed the request as imperfect. TIGTA also reviewed all 34 Fiscal Year 2021 I.R.C. § 6103(c) and (e) requests documented in FOIAXpress for which the IRS withheld information from the requestor. While TIGTA determined that information was properly withheld or released in most cases, the Disclosure Office did not follow FOIA requirements when withholding or releasing information for 13 (16 percent) cases. The Disclosure Office properly processed all 34 I.R.C. § 6103(c) and (e) requests.

FOIA requests may involve the review of thousands of pages of information. For example, the partially denied cases in our sample ranged from four pages to 14,573 pages. Because a disclosure caseworker may make countless decisions when working a case, human error is unavoidable, and the IRS has taken steps to mitigate the risks associated with it.

However, five of the 13 exception cases involved the improper release or redaction of third-party information. Without more specific guidance, disclosure caseworkers could inaccurately redact or release third-party information, such as releasing information obtained from services not available to the general public.

In recent years, cases involving errors in processing I.R.C. § 6103(c) and (e) requests have remained low, and the percentage of cases involving improper FOIA withholdings remained consistent compared with last year.

What TIGTA Recommended

During the audit, TIGTA recommended that the Chief Privacy Officer update the Internal Revenue Manual to clarify when third-party information should be redacted or released. IRS management agreed and issued interim guidance on withholding third-party information. Disclosure employees should use the interim guidance until the Internal Revenue Manual is updated.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

July 28, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2022 Mandatory Review of Compliance
With the Freedom of Information Act (Audit # 202210002)

This report presents the results of our review to determine whether the Internal Revenue Service improperly withheld information requested by taxpayers in writing based on the Freedom of Information Act (FOIA) exemption 5 United States Code § 552(b)(7) or Internal Revenue Code § 6103 or by replying that responsive records were not available or did not exist. We are required to conduct periodic audits in this area and report the results to Congress. This review is part of our Fiscal Year 2022 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 IV.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendation. If you have any questions, please contact me or Bryce Kisler, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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Background

Taxpayers may request information from the Internal Revenue Service (IRS) through the Freedom of Information Act (FOIA)¹ and Internal Revenue Code (I.R.C.) § 6103.

FOIA requests

FOIA requires Federal agencies to make records available to the public upon request unless specifically exempted. For example, United States Code (U.S.C.) § 552(b)(7) allows certain records or information compiled for law enforcement purposes to be withheld, but only to the extent that the production of such law enforcement records or information:²

- Could reasonably be expected to interfere with enforcement proceedings.
- Would deprive a person of a right to a fair trial or an impartial adjudication.
- Could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- Could reasonably be expected to disclose the identity of a confidential source or information furnished by a confidential source.
- Would disclose techniques, procedures, or guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law.
- Could reasonably be expected to endanger the life or physical safety of any individual.

The IRS's FOIAXpress shows that the Disclosure Office closed 7,284 FOIA requests during Fiscal Year (FY) 2021.³ The Disclosure Office processes all written FOIA requests.

I.R.C. § 6103

I.R.C. § 6103 protects the confidentiality of taxpayer returns and return information. However, it does allow the taxpayer, or a person designated by the taxpayer, to request and receive the taxpayer's tax return and return information. FOIAXpress shows that the Disclosure Office closed 395 I.R.C. § 6103(c) or (e) requests in FY 2021. Although the Disclosure Office is tasked with responding to written requests for IRS information, other IRS offices having custody of taxpayer records may also process written requests for information made under I.R.C. § 6103. The Disclosure Office does not track I.R.C. § 6103 requests received and processed by other

¹ 5 United States Code § 552.

² 5 U.S.C. § 552(b)(7).

³ A fiscal year is any 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. The Disclosure Office is part of the IRS's Office of Privacy, Governmental Liaison, and Disclosure, which is responsible for timely compliance with the FOIA and I.R.C. § 6103 requirements. FOIAXpress is a comprehensive, web-based, commercial off-the-shelf application available for electronically processing FOIA requests. FOIAXpress provides a one-stop solution for the entire request management life cycle, from the initial request receipt to final delivery of documents. FOIAXpress includes request management, correspondence management, document management, fee/payment management, document review and redaction, reporting capabilities, and more. In FY 2021, some cases were closed in the Automated Freedom of Information Act System. All cases reviewed for this audit were closed in FOIAXpress.

offices. Therefore, the complete population of I.R.C. § 6103 requests processed by the IRS in FY 2021 is unknown.

Processing of FOIA and I.R.C. § 6103 requests

The Disclosure Office accepts FOIA and I.R.C. § 6103 requests electronically, via fax, or via mail. When a request is received, the Governmental Liaison, Disclosure, and Safeguards' Support Services function creates the request in FOIAXpress and electronically forwards the request to a disclosure manager for assignment to a disclosure caseworker. If the request includes all the necessary information, the disclosure caseworker will conduct a search for responsive records. If there are no records that are responsive to the request, the IRS will send a letter notifying the requestor. If responsive records are located, the disclosure caseworker will review them to determine if any information should be withheld. The IRS then responds to the requestor via letter, providing all requested information or providing partial information and explaining why certain parts of the requested documentation have been redacted.

The Disclosure Office is tasked with responding to written requests for IRS information. Other IRS offices having custody of taxpayer records may also process requests for information made under I.R.C. § 6103. For example, taxpayers or their representatives may request and receive information directly from revenue agents during examinations. The Disclosure Office does not track I.R.C. § 6103 requests received and processed by other offices. For this audit, we reviewed only written requests to the Disclosure Office.

Treasury Inspector General for Tax Administration (TIGTA) reporting requirements and limitations

Section 1102(d)(3)(a) of the IRS Restructuring and Reform Act of 1998 requires TIGTA to conduct periodic audits of determinations made by the IRS to deny written requests to disclose information to taxpayers on the basis of I.R.C. § 6103 or FOIA exemption (b)(7).⁴ In accordance with this statutory requirement, the scope of our review addressed closed FOIA requests for which the information requested was either denied in full or in part under FOIA exemption (b)(7) or the IRS replied that no responsive records were available or the request was imperfect.⁵ For I.R.C. § 6103(c) or (e) requests, which are requests for tax return information made by either the individual taxpayer or by a designee of the taxpayer, we reviewed requests that were tracked on FOIAXpress that were fully or partially denied or for which the IRS replied that no responsive records were available. See Appendix I for additional information about the objective, scope, and methodology.

⁴ For § 1102(d)(3)(a), see Pub. L. No. 105-206, 112 Stat. 685; Pub. L. No. 105-206, 112 Stat. 703 § 1102(d)(3)(A); for I.R.C. § 6103, see I.R.C. § 6103 (2020); and for FOIA exemption (b)(7), see 5 U.S.C. § 552 (2016).

⁵ An imperfect request is one for which Disclosure Office personnel deemed the request not specific enough to process or too broad in scope. Once a request is determined as imperfect, the IRS provides 35 calendar days to the requestor to perfect the request before it is closed.

Results of Review

The Transition From the Automated Freedom of Information Act System to FOIAXpress Was Successful

On May 7, 2021, the IRS successfully completed the transition of processing cases from the Automated Freedom of Information Act System to FOIAXpress. Any cases that were still open in the Automated Freedom of Information Act System were transferred to FOIAXpress. However, since it was a new system, there was a learning curve for working cases in FOIAXpress. For example, we identified four cases for which a disclosure employee did not use the proper technique to cover redacted information. Disclosure caseworkers should use a clear redaction technique so that supervisors can easily see what is redacted. For these four cases, the caseworkers used a redaction technique that covered the redacted information, making it not visible to supervisors. This caused the supervisors to look up an unredacted version of the document, which adds time to a supervisor's review of the redactions. After we identified the cases that did not use the proper technique, the Disclosure Office issued an e-mail in February 2022, reminding caseworkers of the best practices for covering redacted information in FOIAXpress.

Freedom of Information Act Requirements Were Not Always Followed When Redacting Information

We reviewed a statistical sample of 83 of the 3,188 FOIA exemption (b)(7) requests for FY 2021 as well as all 34 FY 2021 I.R.C. § 6103(c) and (e) requests documented in FOIAXpress for which the IRS withheld information from the requestor.⁶ We did not identify disclosure errors for any of the 34 I.R.C. § 6103(c) and (e) cases. However, analysis showed that the Disclosure Office did not follow FOIA requirements when redacting or withholding information for 13 (16 percent) of the 83 cases reviewed. For seven of the 13 FOIA requests, the disclosure caseworkers improperly redacted third-party and miscellaneous information that was not exempt under (b)(7). For example, disclosure caseworkers incorrectly redacted:

- Third-party information acquired using information services that are available to the general public in three cases.

[REDACTED]

[REDACTED]

⁶ There were 7,284 FOIA requests closed on FOIAXpress in FY 2021. For 3,188 requests, the requests were denied, either partially or fully, based on the (b)(7) exemption; the IRS replied that no responsive records were available; or the IRS closed the request as imperfect. Denials of information do not include the "no responsive records" or "imperfect" requests. We included these cases in our universe to determine if specialists erroneously closed cases as no responsive records or imperfect instead of possibly providing available information, if allowed. There were 395 I.R.C. § 6103 requests closed on FOIAXpress in FY 2021. For 34 requests, the requests were denied, partially denied, or no records were found.

[REDACTED]⁷

[REDACTED]

Although § 1102(d)(3)(a) of the IRS Restructuring and Reform Act of 1998 requires TIGTA to review denials of written requests, we also reviewed sampled cases to determine if the IRS improperly released any information. For eight of the sampled cases, disclosure caseworkers improperly released information protected by exemption (b)(7) or improperly cited exemption reason (b)(7)(A) or (b)(7)(C) when the redacted information did not meet the cited criteria for exemption.⁸ For example, disclosure caseworkers improperly released:

- [REDACTED]
- [REDACTED]
- [REDACTED]⁹

Caseworkers also improperly cited an inapplicable exemption reason in four of the eight cases.¹⁰

Disclosure managers reviewed the cases but did not correct the redactions due to human error. FOIA requests may involve the review of thousands of pages, and cases in our sample ranged from four pages to 14,573 pages.¹¹ Because a disclosure caseworker may make countless decisions when working a case, human error is unavoidable. To mitigate the risks of human error, the Data Exchange and Quality Initiatives group conducts monthly quality reviews and management evaluates the results, identifies emerging error trends, and develops corrective actions.

However, five of the 13 exceptions involved the improper release or redaction of third-party information. Examples of third-party information that may be included in IRS records include things such as home ownership information and third-party names. If the third-party information is obtained using information services such as ChoicePoint or Accurant, which are not available to the general public,¹² the Internal Revenue Manual (IRM) requires that the information be redacted:¹³

When a taxpayer requests a copy of his or her records (such as in Examination or Collection files) and ChoicePoint/Accurant data and/or reports are found within those records, apply the following guidelines to process the request: if the request seeks

⁷ [REDACTED]

[REDACTED] Cases are worked, closed, and processed electronically.

⁸ The numbers do not reconcile because cases may have multiple disclosure issues.

⁹ [REDACTED]

¹⁰ For three of the four cases, the only error was adding the (b)(7)(A) or (b)(7)(C) exemption code; no information was improperly redacted or released.

¹¹ We only counted the number of pages for partial denial cases.

¹² The IRS maintains contracts with electronic research publishing services such as Accurant and ChoicePoint. ChoicePoint is now known as LexisNexis Risk Solutions.

¹³ IRM 11.3.41.13.8.27 (August 26, 2021).

“everything in my file” or seeks a specific file (such as Examination or Collection) in which ChoicePoint/Accurint data exists, then redact any third-party information and provide the record in sanitized form. If the request seeks all information “about me,” redact the third-party information....

If the third-party information is discovered by the IRS through means available to the general public (such as public websites), the information may be released. However, the IRM does not stipulate this situation. Disclosure Office management stated that a revenue officer or revenue agent may also request some third-party data to be released or redacted, if, for example, releasing the information could potentially impede enforcement efforts. Decisions are made on a case-by-case basis. For example, the IRM states:¹⁴

Case related research information that is downloaded and/or printed from these services and retained in an open or closed case file may be provided in response to a FOIA request after a determination is made that release will not harm tax administration and that there are no personal privacy interests.

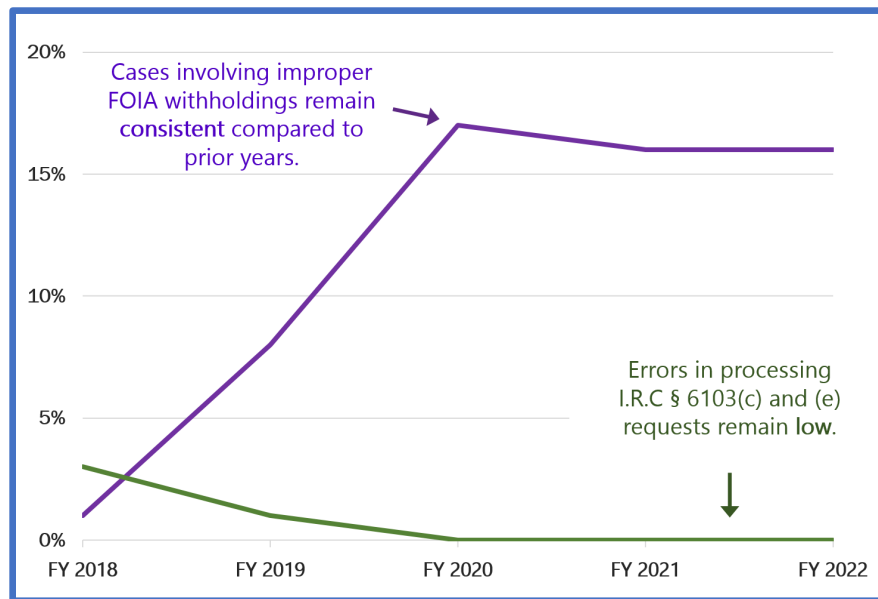
Without more specific guidance, disclosure caseworkers could inaccurately redact or release third-party information, such as releasing information obtained from services not available to the general public. For example, in one case, the caseworker both improperly redacted and released third-party information. During our review, Disclosure Office management created and issued interim guidance for withholding third-party information obtained from information services that are not available to the general public. It is effective until the IRM is updated.

Based on our sample results, we estimate that the IRS did not follow FOIA requirements for information for 360 FOIA requests in FY 2021.¹⁵ Figure 1 shows that, in recent years, cases involving errors in processing I.R.C. § 6103(c) and (e) requests have remained low according to our audit results, and the percentage of cases involving improper FOIA withholdings remained consistent compared with last year.

¹⁴ IRM 11.3.41.13.6.4(14) (August 26, 2021)

¹⁵ Our stratified sample was selected using a 90 percent confidence interval, an 11 percent error rate, and a ± 5 percent precision factor. When projecting the results of our statistical sample, we are 90 percent confident that the actual number of requests for which the FOIA requirements were not followed when redacting information is between 228 and 492 requests (for which the 228 and 492 represent the lower and upper range, respectively). We used a statistical sample because we planned to project to the population.

Figure 1: Percentage of Cases Involving Improper FOIA and I.R.C. § 6103 Information Request Withholdings Identified in TIGTA Audits (FYs 2018 Through 2022)



Source: TIGTA audit reports issued in FYs 2018 through 2022. See Appendix III for a list of the previous reports.

Although the IRS properly releases thousands of pages in response to FOIA and I.R.C. § 6103(c) and (e) requests each year, if it does not process requests under these statutes correctly, taxpayers will not receive the information to which they are entitled. Additionally, the IRS's ability to properly redact information from a FOIA request is essential in maintaining the public's trust in the securing of personal taxpayer information and ensuring transparency in the Federal Government.

Recommendation 1: During the audit, we recommended that the Chief Privacy Officer update the IRM to clarify when third-party information should be redacted or released.

Management's Response: The IRS agreed with this recommendation and will update the IRM to provide clarified guidance for redacting third-party information found within asset locator documents. During the audit, the IRS issued interim corrective guidance that Disclosure employees should use until the IRM is updated.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS improperly withheld information requested by taxpayers in writing based on the FOIA exemption 5 U.S.C. § 552(b)(7) or I.R.C. § 6103 or by replying that responsive records were not available or did not exist. To accomplish our objective, we:

- Determined and reviewed the applicable policies, procedures, and controls that are in place to provide reasonable assurance that the IRS complies with the FOIA and I.R.C. § 6103 when denying information.
- Determined whether disclosure caseworkers are adhering to statutory requirements when denying written requests received from taxpayers under the FOIA.
 - Obtained a FOIAXpress extract for the period October 1, 2020, through September 30, 2021 (FY 2021), and identified 3,188 FOIA requests closed as denied, partially denied (based on FOIA exemption (b)(7) or exempted in conjunction with I.R.C. § 6103), or imperfect or for which responsive records did not exist.¹ The extract also included all closed I.R.C. § 6103(c) and (e) requests tracked in FOIAXpress for FY 2021.²
 - Reviewed a statistically valid sample of 83 of the 3,188 cases. Our stratified sample was selected using a 90 percent confidence interval, an 11 percent overall error rate, and a ± 5 percent precision factor.³ We used a statistical sample because we planned to project to the population. The contracted statistician assisted with developing the sampling plan.
 - Discussed any exception cases with Disclosure Office management to obtain agreement. We projected the number of exception cases to the FOIA population of 3,188 cases. We coordinated with TIGTA's contract statistician to ensure the accuracy of the projection.
- Determined whether disclosure caseworkers are adhering to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.
 - Identified and reviewed all 34 I.R.C. § 6103 cases for which the request was fully or partially denied or for which the request was closed when the IRS determined that responsive records did not exist to determine if the decision to withhold information was appropriate and the record search was adequately documented.

¹ By law, tax records may not be disclosed to any individual unless authorized by I.R.C. § 6103.

² I.R.C. § 6103(c) and (e) requests are requests for tax return information made by either the individual taxpayer or by a designee of the taxpayer.

³ We used a projected error rate for each stratum that averaged 11 percent overall (a 32 percent projected error rate for partial denials, a 1 percent projected error rate for denials, a 1 percent projected error rate for no records, and a 1 percent projected error rate for the imperfect stratum).

Performance of This Review

This review was performed with information obtained from the Office of Privacy, Governmental Liaison, and Disclosure in Washington, D.C., during the period November 2021 through May 2022. 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 Bryce Kisler, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations); Carl Aley, Director; David Bueter, Audit Manager; John Jarvis Jr., Lead Auditor; and Nicole Pangallo, Senior Auditor.

Validity and Reliability of Data From Computer-Based Systems

We received the FOIAXpress extracts of FOIA and I.R.C. § 6103(c) and (e) requests from the IRS's Office of Privacy, Governmental Liaison, and Disclosure and performed tests to assess the reliability of the data. We reviewed the data and compared the record numbers in the FY 2021 FOIAXpress extracts with the extracts from the FY 2020 FOIA audit to determine if the number of records seemed reasonable. We also confirmed that there were no duplicate records. Finally, we interviewed IRS officials who are knowledgeable about the data and determined that the FOIA and I.R.C. § 6103 data in the FY 2021 FOIAXpress extracts were sufficiently reliable for the 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: IRS policies, operating procedures, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information made under the FOIA or I.R.C. § 6103. We evaluated these controls by reviewing source documents, interviewing management, and reviewing I.R.C. § 6103(c) and (e) requests and a statistically valid sample of closed FOIA requests that were denied, partially denied (based on FOIA exemption (b)(7) or exempted in conjunction with I.R.C. § 6103), or imperfect or for which responsive records did not exist.

Appendix II

Outcome Measure

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 360 responses to FOIA requests for which FOIA requirements were not followed when redacting information (see Recommendation 1).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid sample of 83 requests from a population of 3,188 FOIA requests closed during FY 2021 as either of the following:

- Denied or partially denied with FOIA exemption (b)(7) cited as one of the reasons for withholding information.
- The IRS replied that responsive records did not exist.
- Closed as imperfect.

We identified 13 (16 percent) of 83 requests for which FOIA requirements were not followed when redacting information. Figure 1 shows how we estimated that the Disclosure Office improperly followed FOIA requirements in 360 FOIA requests.¹

Figure 1: Estimated Number of FOIA Requests With Improperly Withheld Information

| Strata | Population of FOIA Requests | Sample Size | Requests Worked Incorrectly | Error Percentage in Sample | Estimated Number of Errors in Population |
|-----------------------|-----------------------------|-------------|-----------------------------|----------------------------|--|
| Denials | 32 | 5 | 0 | 0% | 0 |
| Partial Denials | 1,025 | 37 | 13 | 35.1% | 360 |
| No Responsive Records | 428 | 11 | 0 | 0% | 0 |
| Imperfect | 1,703 | 30 | 0 | 0% | 0 |
| Total | 3,188 | 83 | 13 | N/A | 360 |

Source: Statistician projections based on audit results.

¹ Our stratified sample was selected using a 90 percent confidence interval, 11 percent error rate, and ± 5 percent precision factor. When projecting the results of our statistical sample, we are 90 percent confident that the actual number of requests for which the FOIA requirements were not followed when redacting information is between 228 and 492 requests (for which the 228 and 492 represent the lower and upper range, respectively). We used a statistical sample because we planned to project to the population.

Appendix III

Previous Audit Reports Related to This Statutory Review

TIGTA, Report No. 2018-10-058, *Fiscal Year 2018 Statutory Review of Denials of Freedom of Information Act and Internal Revenue Code Section 6103 Requests* (Sept. 2018).

TIGTA, Report No. 2019-10-057, *Fiscal Year 2019 Statutory Review of Denials of Freedom of Information Act and Internal Revenue Code Section 6103 Requests* (Sept. 2019).

TIGTA, Report No. 2020-10-038, *Fiscal Year 2020 Mandatory Review of Compliance With the Freedom of Information Act* (July 2020).

TIGTA, Report No. 2021-10-047, *Fiscal Year 2021 Mandatory Review of Compliance With the Freedom of Information Act* (July 2021).

Appendix IV

Management's Response to the Draft Report



CHIEF PRIVACY OFFICER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 11, 2022

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Robert Choi
Chief Privacy Officer

Celia Doggette

SUBJECT:

Draft Audit Report - Fiscal Year 2022 Mandatory Review of
Compliance With the Freedom of Information Act
(Audit # 202210002)

Thank you for the opportunity to respond to the above referenced draft audit report. The IRS remains committed to openness in government to ensure public trust and to support the ideals of transparency, public participation, and collaboration. We appreciate your recognition of the positive steps taken by the IRS to operate an effective Freedom of Information Act program.

We agree with the outcome measure cited in the report and the recommendation. We value the Treasury Inspector General for Tax Administration identifying the need for clarification of Internal Revenue Manual (IRM) section 11.3.41, Disclosure Case Processing and Inventory Management, which contains steps for redacting third-party information found in asset locator records (e.g., Accurant documents). On May 24, 2022, the IRS issued Interim Guidance (IG) to provide updated instructions on appropriately redacting third-party information found within asset locator records and will incorporate the IG into IRM 11.3.41 by December 15, 2022.

Attached is a detailed response outlining our corrective action.

We will continue to ensure that the provisions of the Freedom of Information Act, the Privacy Act and Internal Revenue Code Section 6103 are followed. If you have any questions, please contact me at 202-317-6449, or a member of your staff may contact Maribel De La Rocha, Associate Director, Disclosure at 213-772-4568.

Attachment

**Fiscal Year 2022 Mandatory Review of
Compliance With the Freedom of Information Act**

Attachment
TIGTA Audit # 202210002

Recommendation 1: The Chief Privacy Officer should update the Internal Revenue Manual (IRM) to clarify when third-party information should be redacted or released.

Corrective Action: The IRS agrees with this recommendation. IRM 11.3.41.13.8.27 will be updated to provide clarified guidance on redacting third-party information found within asset locator documents. On May 24, 2022, we issued [Interim Guidance](#) to provide corrective guidance to employees until we publish the updated IRM section.

Implementation Date: December 15, 2022

Responsible Official(s): Chief Privacy Officer (Privacy, Governmental Liaison & Disclosure); Governmental Liaison, Disclosure & Safeguards, Director (Disclosure)

Appendix V

Abbreviations

| | |
|--------|---|
| FOIA | Freedom of Information Act |
| FY | Fiscal Year |
| I.R.C. | Internal Revenue Code |
| IRM | Internal Revenue Manual |
| IRS | Internal Revenue Service |
| TIGTA | Treasury Inspector General for Tax Administration |
| U.S.C. | United States Code |



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Washington, D.C. 20044-0589

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