

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2022 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

September 14, 2022

Report Number: 2022-30-058

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.

HIGHLIGHTS: Fiscal Year 2022 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Final Audit Report issued on September 14, 2022

Report Number 2022-30-058

Why TIGTA Did This Audit

The IRS Restructuring and Reform Act of 1998 requires TIGTA to review and certify annually whether or not the IRS is complying with the requirements of Internal Revenue Code (I.R.C.) § 6103(e)(8) to disclose collection information to joint filers as to efforts to collect delinquent taxes on joint tax liabilities when requested by taxpayers who are no longer married or no longer reside in the same household. I.R.C. § 6103(e)(6) allows authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8).

Impact on Tax Administration

If the IRS does not provide taxpayers with account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

What TIGTA Found

TIGTA reviewed case files from the Independent Office of Appeals (Appeals) and the Taxpayer Advocate Service (TAS) to determine whether employees followed the joint return disclosure requirements on collection information requests. TIGTA determined that disclosure requirements were not followed in eight (7 percent) of 122 Appeals employees' history files. In most cases, these taxpayers or their representatives did not receive information related to collection activities of the taxpayers' joint liabilities, which they were entitled to by statute, and were potentially burdened with additional delays in resolving their respective tax matter.

TIGTA also interviewed TAS case advocates and intake advocates and Appeals officers and their respective managers to determine what collection activity information the employees would disclose from a jointly filed return, whether the taxpayers were currently married, separated, or divorced and when their accounts were mirrored or non-mirrored. All 25 employees interviewed either responded incorrectly or did not know about one or more questions related to what information could or could not be disclosed to a taxpayer who requested information on a joint return and was divorced or separated.

What TIGTA Recommended

The IRS should: 1) update the Office of Appeals IRM to provide guidance on what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts; 2) require I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all appeals officers and settlement officers in Appeals; 3) update the TAS IRM 13.1.18, *Resolving TAS Cases*, to provide a cross-reference to IRM 13.1.16, *Receipt and Assignment of TAS Cases*, which contains commonly encountered scenarios for joint filer balance due inquiries; and 4) require I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all case advocates and intake advocates in TAS.

The IRS agreed with all four of TIGTA's recommendations and plans to: update the appropriate Office of Appeals IRM to provide collection guidance and cross-reference typical scenarios explaining what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts; update the appropriate TAS IRM to provide a cross-reference to the IRM which contains commonly encountered scenarios for joint filer balance due inquiries; and provide refresher training for all relevant Appeals and TAS employees under I.R.C. §§ 6103(e)(7) and (e)(8).



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

September 14, 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 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns (Audit # 202230004)

This report presents the results of our review to determine whether the Internal Revenue Service is complying with the provisions of Internal Revenue Code § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. 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 recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

Table of Contents

<u>Background</u>	Page 1
<u>Results of Review</u>	Page 3
<u>Employees Are Not Always Disclosing Collection Activity on Jointly Filed Returns As Required</u>	Page 3
<u>Recommendations 1 Through 3:</u>	Page 8
<u>Recommendation 4:</u>	Page 9
Appendices	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u>	Page 10
<u>Appendix II – Outcome Measure</u>	Page 12
<u>Appendix III – Recent Audit Reports Related to This Statutory Review</u>	Page 13
<u>Appendix IV – Management’s Response to the Draft Report</u>	Page 14
<u>Appendix V – Abbreviations</u>	Page 19

Background

The Taxpayer Bill of Rights 2 added Internal Revenue Code (I.R.C.) § 6103(e)(8), which provides that, if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household (hereafter referred to as divorced or separated), upon request in writing by either of the individuals, the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request as to whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount collected.¹ I.R.C. § 6103(e)(6) allows authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). If the IRS does not provide taxpayers the account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

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

After passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers.² This is more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which require the IRS to provide written responses to written requests. Additionally, in Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*.

The IRS Restructuring and Reform Act of 1998 requires the Treasury Inspector General for Tax Administration (TIGTA) to annually review and certify whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request.³ We cannot readily identify the population of cases for which joint filers made such requests because the IRS does not have and does not plan to implement a system to identify or track joint filer requests for collection activity. To identify these requests, the IRS would have to conduct a manual review of every taxpayer case in the collection process with a jointly filed tax return, looking for a notation in the case file or a copy of the taxpayer's letter.

During last year's review, we interviewed a judgmental sample of the Wage and Investment Division's customer service representatives from the Accounts Management function, along with

¹ Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

² Internal Revenue Manual (IRM) 5.1.22.4(2) (Aug. 1, 2019).

³ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

Wage and Investment's individual taxpayer advisory specialists from Field Assistance.⁴ We found that IRS employees did not always provide the information guaranteed under I.R.C. § 6103(e)(8) that should be disclosed under I.R.C. § 6103(e)(7). The Split Spousal Assessment Internal Revenue Manual (IRM) provides that I.R.C. § 6103(e) authorizes the IRS to disclose certain information to taxpayers who filed a joint return and are now divorced or separated and to their authorized representatives about the IRS's efforts to collect taxes owed.⁵ In addition, it specifically includes that this guidance also applies to mirrored accounts.⁶ We also identified some cases for which taxpayers requested collection information for jointly filed returns and determined that employees did not always follow the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8) (hereafter referred to as joint return disclosure requirements).

In this year's review, we focused on two independent organizations within the IRS: the Taxpayer Advocate Service (TAS) and the Independent Office of Appeals (Appeals). We queried case history files and interviewed employees and included the results in this report. TAS is an independent organization within the IRS, led by the National Taxpayer Advocate. TAS has two primary missions: (i) in Case Advocacy, TAS's case advocates advocate for taxpayers on their particular cases, and (ii) Systemic Advocacy identifies systemic problems that impact taxpayers in order to resolve those problems and report to Congress the top 10 most serious problems that impact taxpayers. TAS has over 1,660 employees, mostly case advocates and intake technicians. TAS also has at least one local taxpayer advocate office in every State, the District of Columbia, and Puerto Rico.

Appeals works to resolve tax controversies without litigation. Independent by statute, Appeals ensures that all taxpayers receive an impartial review of their cases after an examination of a return is completed or collection action is proposed. It is the last opportunity the IRS and the taxpayer have to resolve controversies prior to litigation. Nationwide, there are approximately 1,240 employees, mostly appeals officers and settlement officers. An appeals officer typically handles matters involving collection, such as liens and levies, and audit-related issues, such as penalties or additions to tax. For some complex matters, appeals officers may work as a team with other appeals officers. A settlement officer typically handles matters involving collection such as whether the IRS followed proper procedures when imposing a lien or proposing a levy for unpaid taxes.

⁴ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population. TIGTA, Report. No. 2021-30-050, *Fiscal Year 2021 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* p. 3 (Aug. 2021).

⁵ IRM 21.6.8.3 (Sep. 15, 2021).

⁶ IRM 21.6.8.4 (Oct. 1, 2015). Mirroring a joint account sets up two accounts, one for each of the taxpayers. This provides the IRS a means to administer and track collection activity unique to each of the taxpayers. Each taxpayer remains jointly liable for the entire debt; *i.e.*, mirroring an account does not divide the liability in half.

Results of Review

Employees Are Not Always Disclosing Collection Activity on Jointly Filed Returns As Required

Over the last six years, we have interviewed IRS employees about their response to collection information requests for jointly filed returns from taxpayers who are divorced or separated. We have also queried electronic history files in an attempt to identify the full population of these cases. Despite our efforts, we have been unable to identify the population of joint filer requests. However, beginning four years ago, our queries identified some cases for which taxpayers requested collection information related to their jointly filed returns. In reviewing these results, we identified potential violations to the joint return disclosure requirements and made recommendations in an effort to improve IRS employee awareness of the requirements to provide divorced or separated taxpayers with collection information on their jointly filed returns. Nevertheless, we continue to identify issues with employees' understanding of these requirements.

We continue to identify issues with employee understanding of the requirements to provide divorced or separated taxpayers with collection information on their jointly filed returns.

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

As part of this year's review, we queried IRS computer system history files in an attempt to identify the population of joint filer disclosure contacts made during Fiscal Year (FY) 2021. We performed queries on the case history files using specific combinations of key words associated with separated or divorced joint filers to determine whether these word combinations would identify all joint filer disclosure contacts. We were unable to identify the population of all disclosure contacts based on key word searches. However, we successfully identified some cases potentially related to these types of contacts in the history files for both the TAS and Appeals organizations.⁷ We identified cases in which employees did not provide collection information that they should have; however, we did not identify any cases in which employees improperly disclosed prohibited information.

We reviewed the entire population of 122 Appeals and 21 TAS case histories related to joint filer collection information requests.⁸ These requests were made by taxpayers who had filed a joint return, including those who were no longer married or no longer resided in the same household as the other party on the jointly filed return. We did not identify any errors in the TAS case histories, but we determined that employees did not follow the joint return disclosure requirements in eight (7 percent) of the 122 appeals officers' and settlement officers' history

⁷ See Appendix I for the detailed methodology of how we obtained these data.

⁸ See Appendix I for more details on how populations were identified.

files.⁹ The eight Appeals cases were errors because employees in Appeals did not provide the requested collection activity to the divorced or separated spouse as required by law or they did not know whether they were allowed to disclose the information.

In most cases, employees incorrectly stated that they could not provide any collection activity on the other joint taxpayer, such as whether the other taxpayer made a payment or the current collection status, because the taxpayers were no longer married nor living together. As a result, these eight taxpayers or their representatives did not receive information related to collection activities of the taxpayer's joint liabilities to which they were entitled by statute and therefore were potentially burdened with additional delays in resolving their respective tax matter. IRS management concurred with these eight cases with disclosure errors that we identified in Appeals. According to IRS management, these were employee errors.

This has been a recurring issue for the last six years, and we have made recommendations for each of the IRS business units we reviewed to update their IRMs as well as to provide additional training to their employees. The IRS should continue to address this issue in its respective business unit IRMs that provide guidance to employees who may respond to taxpayer inquiries about a joint return matter.

We also observed that [REDACTED] of the eight cases with disclosure errors in Appeals [REDACTED] [REDACTED] Mirroring a joint account sets up two accounts, one for each of the taxpayers. Establishing two separate accounts provides the IRS a means to administer and track collection activity unique to each of the taxpayers. Each taxpayer remains jointly liable for the entire debt; *i.e.*, mirroring an account does not divide the liability in half. Because joint filer taxpayers remain jointly liable, the same collection information, when requested, on mirrored accounts should be disclosed to both taxpayers as would be disclosed for any other jointly filed return, except when the request is for unrelated personal information.¹⁰

In addition to reviewing Appeals and TAS case histories relating to joint filer disclosure contacts made during FY 2021, we also reviewed the related IRMs. We found that the Appeals IRM with technical and procedural guidelines specific to I.R.C. § 6015 Innocent Spouse cases does address I.R.C. § 6103(e) relating to disclosure of collection activities with respect to joint returns; however, the general Appeals IRM does not.¹¹ Therefore, if an Appeals employee is working a joint return case that is not related to Innocent Spouse, they will not be directed to the guidance related to the disclosure of collection activities with respect to joint returns. The general Appeals IRM should be updated to include this information.

We found a similar issue with TAS's IRM. The TAS IRM for case intake and assignment, IRM 13.1.16, *Receipt and Assignment of TAS Cases*, relates directly to the disclosure of collection activities with respect to joint returns.¹² However, the TAS IRM for resolving cases, IRM 13.1.18,

⁹ This was the first year that we reviewed either TAS or Appeals case histories for joint filer collection information requests. Due to the complexity of obtaining the data and searching it, we were able to identify only 21 relevant TAS case histories and 122 relevant Appeals case histories to review. This does not represent the population of potential TAS joint filer collection information requests, which is not tracked. See Appendix I for additional information on how we obtained and analyzed the data.

¹⁰ IRM guidance also includes prohibited disclosures such as the other spouse's location, name change, telephone number, employment, income, assets, the income level at which a currently not collectible account would be reactivated, or the bankruptcy chapter filed by the other spouse.

¹¹ IRM 8.1.6 (May 5, 2016). IRM 8.7.12.2.2 (June 10, 2021). IRM 11.3.2.4.1 (Sept. 17, 2020).

¹² IRM 13.1.16.4.1.2 (Oct. 4, 2021).

Resolving TAS Cases, fails to address I.R.C. § 6103(e).¹³ Therefore, if a TAS employee is using the IRM guidance to resolve a joint return case, they will not be directed to the IRM related to the disclosure of collection activities with respect to joint returns. The TAS IRM for resolving cases, IRM 13.1.18, should be updated to reference this information.

In our FY 2019 report, we recommended that the IRS produce a detailed but simple-to-understand list of information to be attached to all pertinent IRMs as an Exhibit so that IRS employees understand the type of information that they must and must not provide to joint filing taxpayers seeking collection information.¹⁴ IRS management partially agreed with this recommendation and prepared a list of the most common scenarios its employees encounter, with guidance from the Office of Chief Counsel and the Disclosure Office. TAS management also sent a memo to impacted Collection function employees with this information in December 2019. In our FY 2020 report, we recommended that this communication be amended to include the information on mirrored accounts.¹⁵ The IRS agreed with this recommendation and issued a memo in December 2020 to remind employees of the disclosure requirements for taxpayers who filed joint returns and whose accounts have been mirrored. In our FY 2021 report, we recommended that the IRS update Customer Account Services and Field Assistance procedures to include what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.¹⁶ The IRS partially agreed with this recommendation and revised the IRMs to more clearly direct employees to appropriate guidance on what collection activities may and may not be disclosed to taxpayers who jointly filed returns, including references to related scenarios, and provided refresher training to its employees, including adding examples related to mirrored accounts.

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

This year we interviewed a judgmental sample of 25 employees including nine case advocates and intake advocates and four respective managers from TAS and nine appeals officers and settlement officers and three respective managers from Appeals.¹⁷ TIGTA conducted the interviews to determine what collection activity information the employees would disclose from a jointly filed return whether the taxpayers were currently married, separated, or divorced and when their accounts were mirrored and non-mirrored.

We asked employees three questions regarding whether they would provide collection activity information to a married taxpayer on a jointly filed return. In addition, we asked four questions about whether the employee would provide collection activity information on a jointly filed return to a taxpayer who is now divorced or separated when the account was mirrored and non-mirrored. We found that the majority of the 25 employees would accurately provide

¹³ IRM 13.1.18 (Aug 25, 2021). IRM 11.3.2.4.1 (Sept. 17, 2020).

¹⁴ TIGTA, Report No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns* pp. 7 and 8 (Sept. 2019).

¹⁵ TIGTA, Report No. 2020-30-048, *Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns* p. 6 (Aug. 2020).

¹⁶ TIGTA, Report No. 2021-30-050, *Fiscal Year 2021 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* p. 3 (Aug. 2021).

¹⁷ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

collection activity details on a jointly filed return to a married taxpayer when requested. However, when asked about inquiries from divorced or separated taxpayers (with and without mirrored accounts), 25 employees (100 percent) of the 25 interviewed either responded incorrectly or did not know whether they were allowed to disclose the information.¹⁸

Employees were not always aware of what information they are allowed to disclose to joint filer taxpayers

When asked questions about a taxpayer who was divorced or separated (*without a mirrored account*), 21 (84 percent) of the 25 employees interviewed responded incorrectly that they would not disclose information or did not know whether they were allowed to disclose the information. Specifically:

- 15 of the 25 employees responded they would not provide the inquiring former spouse information related to whether the IRS has attempted to collect the deficiency from the other spouse on their joint account, while three of the 25 employees did not know whether they were allowed to disclose the information.
- Eight of the 25 employees responded they would not provide the inquiring spouse information related to the collection activity from the other spouse on their joint account, while four of the 25 employees did not know whether they were allowed to disclose the information.
- Six of the 25 employees responded they would not tell the inquiring spouse the current collection status of the account, while four of the 25 employees did not know whether they were allowed to disclose the information.
- Seven of the 25 employees responded they would not tell the inquiring former spouse why the module was deemed currently not collectible or suspended, while three of the 25 employees did not know whether they were allowed to disclose the information.

When asked questions about a taxpayer who was divorced or separated (*with a mirrored account*), 25 employees (100 percent) of 25 interviewed responded incorrectly that they would not disclose information or did not know whether they were allowed to disclose the information. Specifically:

- 19 of the 25 employees responded they would not provide the inquiring spouse information related to whether the IRS has attempted to collect the deficiency from the other spouse on their joint account, while four of the 25 employees did not know whether they were allowed to disclose the information.
- 13 of the 25 employees responded they would not provide the inquiring spouse information related to the collection activity from the other spouse on their joint account, while six of the 25 employees did not know whether they were allowed to disclose the information.

¹⁸ The overall number of employees (25 employees) reflects the unique counts of employees who provided one or more incorrect responses to our questions. Therefore, the subsequent breakdown by mirrored, non-mirrored, and disclosure violations will not add up to 25 because some employees answered more than one question incorrectly.

- 16 of the 25 employees responded they would not tell the inquiring spouse the current collection status of the account, while seven of the 25 employees did not know whether they were allowed to disclose the information.
- 17 of the 25 employees responded they would not tell the inquiring spouse why the module was deemed currently not collectible or suspended, while eight of the 25 employees did not know whether they were allowed to disclose the information.

Employees were not always aware of what information they are not allowed to disclose to joint filer taxpayers

There are also disclosures that employees should not make to spouses on joint accounts. Prohibited disclosures include items such as: the other spouse's location, name change, or telephone number; information about the other spouse's employment, income, or assets; the income level of the other spouse at which a currently not collectible module would be reactivated; or the bankruptcy chapter filed by the other spouse.¹⁹ When asked questions about a taxpayer who was divorced or separated, nine (36 percent) of the 25 employees interviewed responded that they would disclose some of these prohibited items about the other spouse or did not know whether they were allowed to disclose the information. Specifically:

- Three of the 25 employees responded that, for taxpayers *without a mirrored account*, they would disclose or did not know whether they could disclose the bankruptcy chapter filed by the other spouse (for spouses who were divorced or separated).
- Six of the 25 employees responded that, for taxpayers *with a mirrored account*, they did not know whether they could disclose the bankruptcy chapter filed by the other spouse (for spouses who were divorced or separated).
- Four of the 25 employees responded that, for taxpayers *with a mirrored account*, they did not know whether they could disclose the following information about the other spouse (for spouses who were divorced or separated): income or assets, location or address, new name, and telephone number.

Employees have access to the IRM and other tools to determine what can and what cannot be disclosed. IRS management stated that the employees are encouraged to perform research during taxpayer contacts. The IRS pointed out that the errors may have been caused by employees who were not able to access relevant IRMs or other tools during TIGTA's interviews. During our interviews this year, we found that IRS employees were unaware that they can disclose collection activity on jointly filed returns of divorced or separated taxpayers when an account is mirrored. Employees can disclose collection activity on a jointly filed return to either taxpayer regardless whether the taxpayers are married or are now divorced or separated or whether they have mirrored accounts. Without clear guidance, the IRS may violate taxpayers' rights to obtain collection activity information on their jointly filed returns. Additionally, the IRS may risk the inequitable treatment of taxpayers when employees differ in their responses to similar inquiries.

Based on our collective results from case histories and interviews, employees are providing inconsistent responses to taxpayer requests for collection information on their jointly filed returns when divorced or separated. The IRS should provide periodic training for all case

¹⁹ IRM 21.6.8.3(3) (Sept. 15, 2020).

advocates and intake advocates in TAS and all Appeals officers and settlement officers that address balance due inquiries.

When employees do not know the appropriate disclosure, they might not want to risk inappropriate disclosure of I.R.C. § 6103 and potential discipline for the error. Employees need clear guidance and continued training on joint return disclosure requirements so they can provide the appropriate response when asked about collection activity on jointly filed returns of divorced or separated joint filers, including situations where the account is mirrored.

The Chief, Independent Office of Appeals, should:

Recommendation 1: Update the Office of Appeals IRM to provide guidance on what collection activity must be disclosed and what collection activity must not be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

Management's Response: IRS management agreed with this recommendation and will update the IRM to provide guidance on what collection activity must and must not be disclosed to taxpayers who file joint returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

Recommendation 2: Require I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all appeals officers and settlement officers in Appeals regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether or not they have mirrored accounts, and the nondisclosure of prohibited taxpayer information.

Management's Response: IRS management agreed with the recommendation and will provide I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all appeals officers and settlement officers in Appeals regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether or not they have mirrored accounts, and the nondisclosure of prohibited taxpayer information.

The National Taxpayer Advocate, should:

Recommendation 3: Update the TAS's IRM 13.1.18, *Resolving TAS Cases*, to provide a cross-reference to IRM 13.1.16, *Receipt and Assignment of TAS Cases*, which contains commonly encountered scenarios, explaining what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

Management's Response: IRS management agreed with the recommendation and will update IRM 13.1.18 to provide a cross-reference to IRM 13.1.16, which contains commonly encountered scenarios, explaining what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

**Fiscal Year 2022 Statutory Review of Disclosure of
Collection Activity With Respect to Joint Returns**

Recommendation 4: Require I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all case advocates and intake advocates in the TAS regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether or not they have mirrored accounts, and the nondisclosure of prohibited taxpayer information.

Management's Response: IRS management agreed with the recommendation and will develop refresher training and deliver it before the end of the calendar year as part of Filing Season Readiness. The training material will also be added to the Disclosure Training required for new hires and will be included in technical training on collection topics and mirrored accounts.

Appendix I

Detailed Objective, Scope, and Methodology

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

- Determined whether any systems or processes had been implemented or modified since our last review to track taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8) or joint filer requests and the IRS's responses for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- Interviewed a judgmental sample of Appeals and TAS employees to determine how they responded to questions about collection activity on accounts of taxpayers who jointly filed a return but are no longer married or no longer reside in the same household of the other taxpayer on the return.¹
 - Judgmentally selected three different geographic locations (California, New York, and Tennessee) from which to interview both Appeals and TAS employees, based on number of employees at each location. Randomly selected employees from different groups at each of the locations to obtain a variety of responses.
- Identified potential FY 2021 joint filer disclosure-related Appeals and TAS taxpayer contacts and reviewed all potential results to determine if employees' responses to these contacts were appropriate based on I.R.C. §§ 6103(e)(7) and (e)(8).
 - Reviewed the IRS's compliance with the joint return disclosure requirements by requesting assistance from TIGTA's Applied Research and Technology Data Analytics group to identify a potential population of separated or divorced taxpayers with disclosure-related contacts in FY 2021. The group identified 122 Appeals history files in the Appeals Centralized Database System and 21 TAS history files in the Taxpayer Advocate Management Information System that potentially related to taxpayer requests for collection activity information on jointly filed returns for which the taxpayers were now either divorced or separated. We reviewed the entire populations of Appeals and TAS history files provided: 119 of the 122 Appeals files were from unique taxpayers, while 20 of the 21 TAS files were from unique taxpayers.

Performance of This Review

This review was performed with information obtained from the offices of the Office of Appeals and the National Taxpayer Advocate located in Fresno, California; Brookhaven, New York; Holtsville, New York; and Memphis, Tennessee, and during the period of October 2021 through July 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

¹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

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; My-Nga Diep, Auditor; and Kevin B. Nielsen, Information Technology Specialist (Data Analytics).

Validity and Reliability of Data From Computer-Based Systems

The Applied Research and Technology Data Analyst performed data analytics using an extract from the following two data systems: the TIGTA Data Center Warehouse's Appeals Centralized Database System and the Taxpayer Advocate Management Information System on the Business Objects Environment. Each dataset was used to identify a potential population of separated or divorced taxpayers with disclosure-related contacts in FY 2021. We evaluated the results of the data analytics by performing electronic data testing for missing data, outliers, duplicates, or obvious errors. We verified the completeness of the data by reviewing the date fields of the narratives, which all fell within the requested time frame, and met with IRS management to discuss the impact the Coronavirus Disease 2019 pandemic had on IRS operations to determine why there were gaps in the dates of the narratives. Because there were only 122 Appeals Centralized Database System cases and 21 Taxpayer Advocate Management Information System cases, we reviewed both of the populations of cases and verified the accuracy of all case data as we performed our case review. We determined that the data were sufficiently reliable for the purpose of this audit.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: documented procedures pertaining to requests under I.R.C. § 6103(e)(8). We evaluated these controls by reviewing Office of Appeals and TAS system history files and conducting interviews with TAS and Appeals personnel who receive these requests.

Appendix II

Outcome Measure

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

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential; the IRS did not provide eight taxpayers who were divorced or separated information related to the collection activity on their joint returns (see Recommendations 1 and 2).

Methodology Used to Measure the Reported Benefit:

TIGTA's Applied Research and Technology Data Analytics group identified a potential population of separated or divorced taxpayers with disclosure-related contacts in FY 2021. The group identified 122 Office of Appeals history files that potentially related to taxpayer requests for collection activity information on jointly filed returns for which the taxpayers were either divorced or separated. We reviewed all 122 Appeals history files and determined that these files belonged to 119 unique taxpayers. From these, we identified a total of eight unique taxpayers whose allowable requests for collection information on their joint returns were denied. These taxpayers or their representatives were potentially burdened with additional delays in resolving their respective joint tax return matter.

Appendix III

Recent Audit Reports Related to This Statutory Review¹

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

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

TIGTA, Report No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Sept. 2019).

TIGTA, Report No. 2020-30-048, *Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2020).

TIGTA, Report No. 2021-30-050, *Fiscal Year 2021 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Aug. 2021).

¹ This list provides the most recent five of the 23 previous reports issued by TIGTA.

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

August 19, 2022

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT
Amalia C.

FROM: Lia Colbert Colbert
Commissioner, Small Business/Self-Employed Division

Digitally signed by Amalia
C. Colbert
Date: 2022.08.19
07:46:52 -0400

SUBJECT: Draft Audit Report – Fiscal Year 2022 Statutory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(#202230004)

Thank you for the opportunity to review and comment on the subject draft audit report. Internal Revenue Code (IRC) § 6103 provides that tax information shall remain confidential, and disclosure of such information to others shall be limited to those exceptions authorized under IRC § 6103. One of those exceptions, IRC § 6103(e)(8) requires the IRS, upon request, to disclose efforts to collect delinquent taxes on joint tax return liabilities to taxpayers who are no longer married or no longer reside in the same household, unless the disclosure would impair federal tax administration.

The IRS has long cultivated a culture of protecting taxpayer information from inappropriate disclosure, and we provide our employees with a variety of resources to help them accurately apply the law. We recognize the difficult position facing divorced or separated taxpayers with respect to jointly owed tax liabilities. We remain committed to helping them resolve their tax liabilities, including providing them the information we are authorized to disclose regarding our efforts to collect the delinquent tax.

Your report noted that some employees were uncertain as to how to apply the applicable procedures. We acknowledge the importance of clear guidance on this issue. We will update the applicable Internal Revenue Manuals (IRMs), which contain procedural guidance for employees, to direct them more clearly to the list of authorized disclosures for divorced or separated joint filers. Additionally, we will address this topic in the 2022 filing season readiness training for employees.

We appreciate your evaluation of our program and recommendations to improve our processes. Attached are our comments and proposed actions to your

**Fiscal Year 2022 Statutory Review of Disclosure of
Collection Activity With Respect to Joint Returns**

2

recommendations. If you have any questions, please contact me, or Frederick W. Schindler, Director, Collection, Small Business/Self-Employed Division.

Attachment

RECOMMENDATION 1:

The Chief, Independent Office of Appeals, should update the Office of Appeals IRM to provide guidance on what collection activity must be disclosed and what collection activity must not be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

CORRECTIVE ACTION:

We will update the IRM to provide guidance on what collection activity must be disclosed and what collection activity must not be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether they have mirrored accounts.

IMPLEMENTATION DATE:

October 15, 2023

RESPONSIBLE OFFICIAL:

Director, Appeals Case and Operations Support

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 2:

The Chief, Independent Office of Appeals, should require IRC §§ 6103(e)(7) and (e)(8) refresher training for all appeals officers and settlement officers in Appeals regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether or not they have mirrored accounts and the non-disclosure of prohibited taxpayer information.

CORRECTIVE ACTION:

Appeals will provide IRC §§ 6103(e)(7) and (e)(8) refresher training for all appeals officers and settlement officers in Appeals regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether they have mirrored accounts and the non-disclosure of prohibited taxpayer information.

IMPLEMENTATION DATE:

October 15, 2023

**Fiscal Year 2022 Statutory Review of Disclosure of
Collection Activity With Respect to Joint Returns**

2

RESPONSIBLE OFFICIAL:

Director, Appeals Case and Operations Support

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 3:

The National Taxpayer Advocate should update the Taxpayer Advocate Service's IRM 13.1.18 *Resolving TAS Cases* to provide a cross reference to IRM 13.1.16 *Receipt and Assignment of TAS Cases*, which contains commonly encountered scenarios, explaining what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

CORRECTIVE ACTION:

TAS will update IRM 13.1.18 *Resolving TAS Cases* to provide a cross reference to IRM 13.1.16 *Receipt and Assignment of TAS Cases*, which contains commonly encountered scenarios, explaining what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

IMPLEMENTATION DATE:

January 15, 2023

RESPONSIBLE OFFICIAL:

Executive Director Case Advocacy, Intake and Technical Support

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 4:

The National Taxpayer Advocate should require I.R.C. §§ 6103(e)(7) and (e)(8) refresher training for all case advocates and intake advocates in the TAS regarding employee requirements to disclose collection activity on jointly filed returns when requested from individuals who are no longer married or no longer reside in the same household, whether or not they have mirrored accounts and the non-disclosure of prohibited taxpayer information.

CORRECTIVE ACTION:

TAS will develop refresher training and deliver before the end of the calendar year as part of Filing Season Readiness. The training material will also be added to the Disclosure Training required for new hires and will be included in technical training on collection topics and mirrored accounts.

IMPLEMENTATION DATE:

January 15, 2023

RESPONSIBLE OFFICIAL:

Executive Director Case Advocacy, Intake and Technical Support
Executive Director, Strategy, Assessment, and Employee Development

CORRECTIVE ACTION MONITORING PLAN:

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

OUTCOME MEASURE:

Taxpayer Burden – Potential; the IRS did not provide eight taxpayers who were divorced or separated, information related to the collection activity on their joint returns (see Recommendations 1 and 2).

IRS RESPONSE:

IRS agrees with this outcome measure.

Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
call our toll-free hotline at:**

(800) 366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.