



*Fiscal Year 2015 Mandatory Review of  
Disclosure of Collection Activities on Joint  
Returns*

**May 26, 2015**

**Reference Number: 2015-30-050**

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 2015 MANDATORY REVIEW OF DISCLOSURE OF COLLECTION ACTIVITIES ON JOINT RETURNS

## Highlights

**Final Report issued on May 26, 2015**

Highlights of Reference Number: 2015-30-050 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### IMPACT ON TAXPAYERS

Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the IRS's efforts to collect delinquent taxes on their joint tax return liabilities. If the IRS does not provide employees sufficient guidance for handling those requests, taxpayer rights could potentially be violated.

### WHY TIGTA DID THE AUDIT

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

### WHAT TIGTA FOUND

IRS procedures provide employees with sufficient guidance for handling joint filer collection activity information requests. However, TIGTA could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written collection activity information requests from joint filers. IRS management information systems do not separately record or monitor joint filer requests, and there is no legal requirement for the IRS to do so. Further, TIGTA does not

recommend the creation of a separate tracking system.

### WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report. IRS officials were provided an opportunity to review the draft report and did not provide any comments.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

May 26, 2015

**MEMORANDUM FOR** COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED  
DIVISION

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

**SUBJECT:** Final Audit Report – Fiscal Year 2015 Mandatory Review of  
Disclosure of Collection Activities on Joint Returns  
(Audit # 201530004)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) is complying with the provisions of Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. The Treasury Inspector General for Tax Administration is required, under I.R.C. § 7803(d)(1)(B), to annually evaluate the IRS's compliance with the joint filer provisions of the law. This audit is included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Although we made no recommendations in this report, we provided IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments. Copies of this report are also being sent to the IRS managers affected by the report.

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



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*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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*Table of Contents*

**Background** ..... Page 1

**Results of Review** ..... Page 3

    The Internal Revenue Manual Provides Employees Sufficient  
    Guidance for Handling Joint Filer Collection Activity  
    Information Requests ..... Page 3

    Compliance With Statutory Requirements for the Disclosure of  
    Collection Activity With Respect to Jointly Filed Tax Returns  
    Cannot Be Determined..... Page 4

**Appendices**

    Appendix I – Detailed Objective, Scope, and Methodology ..... Page 5

    Appendix II – Major Contributors to This Report ..... Page 6

    Appendix III – Report Distribution List ..... Page 7

    Appendix IV – Recent Audit Reports Related to This Statutory Review..... Page 8



*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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*Abbreviations*

I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration



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*Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns*

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## *Background*

The Taxpayer Bill of Rights 2<sup>1</sup> added Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household, upon request in writing by either of the individuals the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount collected. I.R.C. § 6103(e)(6) allows authorized representatives of the joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). After passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers. This is different from the statutory requirements, which require the IRS to provide written responses to written requests.

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

The IRS Legislative Affairs Division contacted the staff of the Joint Committee on Taxation to determine whether the IRS is in compliance with the statutory requirements when it allows oral responses to written joint filer requests. In August 2000, the Legislative Affairs Division stated that the Joint Committee on Taxation staff was aware of the IRS's practice of providing oral responses to taxpayers and advised Legislative Affairs that this practice was permissible, even though I.R.C. § 6103(e)(8) requires that the disclosure be in writing.

The IRS Restructuring and Reform Act of 1998<sup>2</sup> requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request. However, we cannot determine if employees are in compliance with I.R.C. § 6103(e)(8) because neither the IRS nor we can readily identify cases for review. To identify this issue, 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.

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

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



*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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This review was performed with information obtained from the offices of the IRS Commissioner, the National Taxpayer Advocate, and the Privacy, Governmental Liaison, and Disclosure office located in Washington, D.C., and the Small Business/Self-Employed Division Headquarters located in New Carrollton, Maryland, during the period February through April 2015. 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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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## *Results of Review*

### ***The Internal Revenue Manual Provides Employees Sufficient Guidance for Handling Joint Filer Collection Activity Information Requests***

The provision of the Taxpayer Bill of Rights 2 related to joint filers was enacted out of congressional concern about the treatment of separated or divorced taxpayers. When introducing the Bill, Representative Nancy L. Johnson (R-Connecticut) stated:

*The subcommittee learned of many instances where divorced taxpayers who had previously signed a joint tax return during their marriage were treated harshly when the IRS later disputed the accuracy of their joint tax return. In many cases the IRS tried to collect the entire amount of taxes from the wife, even though the omitted income or erroneous deductions which caused the deficiency were attributable solely to her former husband. All too often, the woman, being pursued for payment of taxes due, was not aware that a tax return filed during the marriage had been audited or that a deficiency had been imposed on the return.*

To address this concern, the IRS revised its Internal Revenue Manual (IRM) to include procedures for responding to taxpayers who file jointly and submit written requests for information on IRS collection activity.<sup>3</sup> The IRM instructs employees to disclose whether any attempts have been made to collect the tax due from either of the joint filers, the current collection status, and the amount collected to date.

The IRM also allows employees to provide both oral and written responses to taxpayers.<sup>4</sup> IRS procedures require employees to respond in writing only when taxpayers specifically cite I.R.C. § 6103(e)(8) as their authority for making written requests for collection information on joint return liabilities. If the taxpayer's written request does not specifically cite I.R.C. § 6103(e)(8), the IRS has directed employees to provide oral responses when practicable based upon I.R.C. § 6103(e)(7). The IRS believes that oral responses provide good customer service to taxpayers because the taxpayers get an immediate answer. TIGTA believes these procedures provide IRS employees sufficient guidance for handling these requests in accordance with the law.

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<sup>3</sup> IRM 11.3.2.4.1 (Aug. 29, 2008).

<sup>4</sup> IRM 5.1.22.3 (Oct. 23, 2014).



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*Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns*

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***Compliance With Statutory Requirements for the Disclosure of Collection Activity With Respect to Jointly Filed Tax Returns Cannot Be Determined***

IRS management information systems do not record or monitor joint filer requests for information on collection activities. As such, we could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written requests from joint filers because of our inability to identify any requests received for information on joint filer collection activities. During this review, management from the Small Business/Self-Employed Division; National Taxpayer Advocate; and the Privacy, Governmental Liaison, and Disclosure office commented that the IRS's position has not changed from last year, and that the IRS does not plan to implement a system to identify or track joint filer requests for collection activity. In addition, there is no legal requirement for the IRS to record or monitor cases involving these requests.

As part of this year's review, we queried IRS system history files in an attempt to identify the population of joint filer disclosure-related contacts during Fiscal Year<sup>5</sup> 2014. We performed queries on the history files using specific key words associated with separated and/or divorced joint filer disclosures to determine if these words would exclusively identify joint filer disclosure-related contacts. Based on the results of those queries, we determined that the population of I.R.C. § 6103(e)(8) disclosure contacts cannot be determined based on key word searches.

TIGTA does not recommend the creation of a separate tracking system and is making no recommendations in this report. This is the seventeenth year in which we have reported our inability to provide an opinion on the IRS's compliance with the provisions of I.R.C. § 6103(e)(8).<sup>6</sup>

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<sup>5</sup> A 12-consecutive-month period ending on the last day of any month, except December. The Federal Government's Fiscal Year begins on October 1 and ends on September 30.

<sup>6</sup> See Appendix IV for a list of the five most recent prior audit reports related to this statutory review.



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*Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns*

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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

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

- I. Reviewed IRS system history files to detect potential joint filer disclosure-related contacts with taxpayers to determine if we could identify the population related to separated and/or divorced taxpayers during Fiscal Year<sup>1</sup> 2014.
- II. Contacted IRS management personnel in the Small Business/Self-Employed Division to determine if an IRS system or process that tracks joint filer requests and the IRS's responses for collection information relating to the requirements of I.R.C. § 6103(e)(8) has been implemented since our last review.
- III. Contacted the appropriate IRS and TIGTA Office of Investigations management personnel to determine if any systems or processes have been modified since our last review to track taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).

#### **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: the Small Business/Self-Employed Division Collection function and the Privacy, Governmental Liaison, and Disclosure office's policies, procedures, and practices for responding to taxpayer requests related to the requirements of I.R.C. § 6103(e)(8). Our assessment did not evaluate the controls for ensuring the IRS's accuracy in responding to these requests because IRS management information systems do not record or monitor joint filer requests for information on collection activities.

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<sup>1</sup> A 12-consecutive-month period ending on the last day of any month, except December. The Federal Government's Fiscal Year begins on October 1 and ends on September 30.



*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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**Appendix II**

*Major Contributors to This Report*

Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement  
Operations)  
Carl L. Aley, Director  
Beverly K. Tamanaha, Audit Manager  
Javier Fernandez, Lead Auditor  
Nicole DeBernardi, Senior Auditor  
Marcus Sloan, Auditor



*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Operations Support OS  
Deputy Commissioner for Services and Enforcement SE  
Deputy Commissioner, Small Business/Self-Employed Division SE:S  
Director, Communications and Stakeholder Outreach, Small Business/Self-Employed Division  
SE:S:OS:CSO  
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC  
Director, Privacy, Governmental Liaison, and Disclosure OS:P  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaison: Commissioner, Small Business/Self-Employed Division SE:S



*Fiscal Year 2015 Mandatory Review of Disclosure of Collection  
Activities on Joint Returns*

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**Appendix IV**

*Recent Audit Reports Related to  
This Statutory Review*

TIGTA, Ref. No. 2010-30-026, *Fiscal Year 2010 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Feb. 2010).

TIGTA, Ref. No. 2011-30-077, *Fiscal Year 2011 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2011).

TIGTA, Ref. No. 2012-30-084, *Fiscal Year 2012 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2012).

TIGTA, Ref. No. 2013-30-079, *Fiscal Year 2013 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2013).

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

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<sup>1</sup> This list provides the most recent five of the sixteen previous reports issued by TIGTA.