



*Four Fair Tax Collection Practices  
Violations Resulted in Administrative  
Actions in Fiscal Year 2016*

**September 28, 2017**

**Reference Number: 2017-10-074**

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.

---

Phone Number / 202-622-6500

E-mail Address / [TIGTACommunications@tigta.treas.gov](mailto:TIGTACommunications@tigta.treas.gov)

Website / <http://www.treasury.gov/tigta>



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

**1-800-366-4484**

**By Web:**

**[www.treasury.gov/tigta/](http://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.



## HIGHLIGHTS

### **FOUR FAIR TAX COLLECTION PRACTICES VIOLATIONS RESULTED IN ADMINISTRATIVE ACTIONS IN FISCAL YEAR 2016**

## Highlights

**Final Report issued on September 28, 2017**

Highlights of Reference Number: 2017-10-074 to the Internal Revenue Service Chief Counsel and Acting IRS Human Capital Officer.

### **IMPACT ON TAXPAYERS**

The abuse and harassment of taxpayers by IRS employees while attempting to collect taxes reflects poorly on the IRS and can have a negative impact on voluntary compliance. It is important that taxpayers receive fair and balanced treatment from IRS employees when they attempt to collect taxes.

### **WHY TIGTA DID THE AUDIT**

The overall objective of this review was to obtain information on any reported IRS administrative or civil actions resulting from violations of Fair Tax Collection Practices (FTCP) (Internal Revenue Code Section 6304) for cases closed during Fiscal Year 2016. This information will be used to comply with the IRS Restructuring and Reform Act of 1998 requirement that TIGTA includes in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP violations.

### **WHAT TIGTA FOUND**

TIGTA identified four FTCP violations closed in Fiscal Year 2016 that resulted in administrative actions for IRS collection employees. These violations included contacting taxpayers directly without the required consent of the taxpayers' power of attorney, harassing or abusing taxpayers, and using obscene or profane language with taxpayers during collection-related activities.

Separate from our review of FTCP violations, TIGTA identified four additional misconduct cases that were not closed timely on the

IRS's tracking system. It is imperative that case closing information be input timely and correctly because data on misconduct cases are used for reports provided to a number of other offices and, at times, are the basis for information provided to Congress on legislation affecting the IRS.

In addition, during Fiscal Year 2016, the TIGTA Office of Investigations referred 14 complaints to the IRS that were not entered into the IRS tracking system or reviewed to determine if they were violations of the FTCP. After TIGTA brought this to IRS management's attention, the IRS began working on a new computer site to control complaints before they are added to the tracking system.

Lastly, there were no civil actions resulting in monetary awards for damages to taxpayers because of an FTCP violation.

### **WHAT TIGTA RECOMMENDED**

TIGTA recommended that the Acting IRS Human Capital Officer clarify guidance for timely closing cases on the IRS's system and review the 14 complaint cases that were not entered on the IRS's system to determine whether the complaints are FTCP violations.

In their response, IRS management agreed with the recommendations and plans to clarify guidance for timely closing cases on the IRS's system and ensure that actions are taken to address the 14 cases to determine whether the complaints are FTCP violations.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 28, 2017

**MEMORANDUM FOR CHIEF COUNSEL**  
**INTERNAL REVENUE SERVICE HUMAN CAPITAL OFFICER**

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

**SUBJECT:** Final Audit Report – Four Fair Tax Collection Practices Violations  
Resulted in Administrative Actions in Fiscal Year 2016  
(Audit # 201710006)

This report presents the result of our review to obtain information on any reported Internal Revenue Service (IRS) administrative or civil actions resulting from violations of Fair Tax Collection Practices (FTCP)<sup>1</sup> for cases closed during Fiscal Year<sup>2</sup> 2016. Information found in this report regarding administrative or civil actions related to FTCP violations will be used to comply with the IRS Restructuring and Reform Act of 1998<sup>3</sup> § 1102(d)(1)(G)<sup>4</sup> requirement that the Treasury Inspector General for Tax Administration include this information in one of its Semiannual Reports to Congress. This audit is included in our Fiscal Year 2017 Annual Audit Plan and addresses the major management challenge of Protecting Taxpayer Rights.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

---

<sup>1</sup> 26 U.S.C. § 6304.

<sup>2</sup> 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.

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 702-703.



---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

*Table of Contents*

[Background](#).....Page 1

[Results of Review](#) .....Page 3

[Fair Tax Collection Practices Violations and Potentially  
    Miscoded Violations Were Not Accurately Reported](#) .....Page 3

[Recommendation 1:](#).....Page 5

[Recommendation 2:](#).....Page 6

[No Fair Tax Collection Practices Civil Actions Resulted  
    in Monetary Settlements to Taxpayers](#) .....Page 6

**Appendices**

[Appendix I – Detailed Objective, Scope, and Methodology](#) .....Page 7

[Appendix II – Major Contributors to This Report](#) .....Page 9

[Appendix III – Report Distribution List](#) .....Page 10

[Appendix IV – Outcome Measures](#).....Page 11

[Appendix V – Fair Tax Collection Practices Provisions](#) .....Page 13

[Appendix VI – Fair Tax Collection Practices Violation Issue Codes](#) .....Page 14

[Appendix VII – Management’s Response to the Draft Report](#).....Page 16



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

*Abbreviations*

ALERTS	Automated Labor and Employee Relations Tracking System
FTCP	Fair Tax Collection Practices
FY	Fiscal Year
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration



---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

*Background*

The Fair Debt Collection Practices Act,<sup>1</sup> as originally enacted, included provisions that prohibit various collection abuses and harassment in the private sector. However, the restrictions did not apply to the Federal Government until passage of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998.<sup>2</sup> Congress believed that it was appropriate to require the IRS to comply with certain portions of the Fair Debt Collection Practices Act and be at least as considerate to taxpayers as private creditors are required to be with their customers. IRS Restructuring and Reform Act of 1998 § 3466 requires the IRS to follow provisions, known as Fair Tax Collection Practices (FTCP),<sup>3</sup> similar to those in the Fair Debt Collection Practices Act.

***Internal Revenue Service employees are required to follow Fair Tax Collection Practices, similar to those in the Fair Debt Collection Practices Act.***

IRS employees who violate any FTCP provision are subject to disciplinary actions. Violations and related disciplinary actions are tracked on the IRS Human Capital Officer's Automated Labor and Employee Relations Tracking System (ALERTS). In addition, the Federal Government may be subject to claims for damages under 26 United States Code § 7433, *Civil Damages for Certain Unauthorized Collection Actions*, if the FTCP violations are substantiated. Taxpayer civil actions are tracked on the Office of Chief Counsel's Counsel Automated System Environment.

IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G)<sup>4</sup> requires the Treasury Inspector General for Tax Administration (TIGTA) to include in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP violations listed in 26 U.S.C. § 6304. The Semiannual Report must provide a summary of such actions and include any judgments or awards granted to taxpayers. TIGTA is required to report as violations the actions taken by IRS employees who were involved in a collection activity and who received a disciplinary action that is considered an administrative action. The law does not provide a definition of administrative action; however, for this review, we used the IRS's definition, which is action that ranges from a letter of admonishment<sup>5</sup> to removal. Information from this report will be used to meet the requirements of IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G).

---

<sup>1</sup> 15 U.S.C. §§ 1601 note, 1692-1692p (2010).

<sup>2</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>3</sup> See Appendix V for a detailed description of FTCP provisions.

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 702-703.

<sup>5</sup> A disciplinary action that involves the manager holding a discussion with the employee to advise the employee that he or she has engaged in misconduct and that the misconduct should not be repeated. The manager confirms the discussion with a written summary in a letter.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

This review was performed with information obtained from the offices of the IRS Human Capital Officer and Chief Counsel in the IRS Headquarters in Washington, D.C., during the period January through June 2017. 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. This audit did not address potential violations not reported to the IRS or TIGTA. 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.





---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

*Results of Review*

**Fair Tax Collection Practices Violations and Potentially Miscoded  
Violations Were Not Accurately Reported**

TIGTA identified four FTCP violations closed in Fiscal Year<sup>6</sup> (FY) 2016 that resulted in administrative actions for IRS collection employees performing collection activities. Two revenue officers contacted taxpayers directly without the required consent of the taxpayers' power of attorney, one contact representative<sup>7</sup> harassed or abused taxpayers, and one contact representative used obscene or profane language with taxpayers. Administrative actions were taken by the IRS to address these violations: one revenue officer resigned in lieu of termination, one revenue officer received a 10-day suspension, one contact representative received a 10-day suspension, and one contact representative was admonished. The disciplinary actions received by all four employees were consistent with the range of penalties set forth in the *IRS Manager's Guide to Penalty Determinations*.<sup>8</sup>

While identifying these cases, we noted that two cases were incorrectly coded as FTCP violations,<sup>9</sup> and one case was not coded as an FTCP case and should have been.<sup>10</sup> These miscodings occurred because of incomplete documentation in the ALERTS and IRS officials corrected them during the audit.

The abuse and harassment of taxpayers by IRS employees while attempting to collect taxes reflects poorly on the IRS and can have a negative impact on voluntary compliance. It is important that taxpayers receive fair and balanced treatment from IRS employees when they attempt to collect taxes.

---

<sup>6</sup> 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.

<sup>7</sup> Contact representative duties include assessing and collecting taxes.

<sup>8</sup> The range of penalties is to serve as a guide only and is not a rigid standard. Deviations from the guide are permissible, and greater or lesser penalties than suggested may be imposed. IRS management determines the appropriate penalty for infractions as individual circumstances warrant, considering mitigating and aggravating factors as well as agency-wide penalties for comparable fact patterns.

<sup>9</sup> See Appendix VI for a detailed description of FTCP violation issue codes.

<sup>10</sup> See Appendix IV.



---

## *Four Fair Tax Collection Practices Violations Resulted in Administrative Actions in Fiscal Year 2016*

---

### **Misconduct cases were not timely closed**

Separate from our review of FTCP violations,<sup>11</sup> we identified four additional collection employee misconduct cases that were not closed timely on the ALERTS. The Internal Revenue Manual<sup>12</sup> states that the IRS<sup>13</sup> should close a case on the ALERTS within 10 calendar days of the employee's receipt of a decision letter (event)<sup>14</sup> and that investigation cases should be closed on the ALERTS within 180 calendar days of being received in Labor Relations. In each of the four cases, the cases were untimely closed on the ALERTS in FY 2017 with FY 2016 closing dates.

- In two cases, the ALERTS closings were up to 158 calendar days after the employees received their decision letters<sup>15</sup> in FY 2016 and not within 10 calendar days as required by the Internal Revenue Manual.
- In one case, the ALERTS closing was 276 calendar days after the case was received in Labor Relations and not within 180 calendar days. This case was opened on the ALERTS in FY 2016; however, in FY 2017 when the Labor Relations specialist started working the case, it was determined that the employee had retired months earlier. The case was closed incorrectly on the ALERTS using the FY 2016 date of the employees' retirement instead of the FY 2017 date when the Labor Relations specialist determined the case should be closed.
- In one case, the ALERTS closing was 232 calendar days after it was received in Labor Relations. This case was opened on the ALERTS in FY 2016; however, in FY 2017 when the Labor Relations specialist resumed working the case, it was determined that the employee had settled the misconduct issue months earlier. The case was closed incorrectly on the ALERTS in FY 2017 using the FY 2016 misconduct settlement date.

IRS management stated that the untimely closings occurred because of workload and staffing imbalances. However, they also stated that the two cases which were not closed within 180 calendar days of being received in Labor Relations were closed with incorrect dates because employees did not follow proper procedures. It is imperative that case closing information be input timely and correctly because data on misconduct cases are used for reports provided to a number of other offices and, at times, are the basis for information provided to Congress on legislation affecting the IRS. In addition, *Standards for Internal Control in the Federal*

---

<sup>11</sup> We identified this issue while validating the FY 2016 ALERTS data used in this audit.

<sup>12</sup> Internal Revenue Manual 6.751.1-4 (Nov. 4, 2008) and 6.751.1-9 (Nov. 4, 2008).

<sup>13</sup> The Human Capital Office, Labor Relations/Employee Relations staff is responsible for opening and closing cases on the ALERTS.

<sup>14</sup> Events can include, but are not limited to, settlements, decision letters, management recommendations, *etc.*

<sup>15</sup> A decision letter is the final overview of case information, actions, and any employee replies received.



---

## *Four Fair Tax Collection Practices Violations Resulted in Administrative Actions in Fiscal Year 2016*

---

*Government*<sup>16</sup> requires that transactions be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions.

### **Potential FTCP violations were not tracked**

During FY 2016, the TIGTA Office of Investigations referred 14 complaints<sup>17</sup> to the IRS that were not entered into the ALERTS and were not reviewed to determine if they were violations of the FTCP.<sup>18</sup> This issue was also identified in a prior audit,<sup>19</sup> and the IRS had begun taking corrective action by working with TIGTA Office of Investigations to revise TIGTA Form 2070, *Complaint Referral Memorandum*. The revised form would allow the TIGTA Office of Investigations to more clearly identify potential FTCP violations when e-mailing complaints to the IRS. However, corrective actions were not completed before these 14 cases were processed.

After we informed the IRS of the 14 cases, it located six but could not locate eight of the 14 complaints in *any* of its records. As a result, the IRS began working on a new computer SharePoint site to control complaints from the TIGTA Office of Investigations before they are added to the ALERTS.

### **Recommendations**

The Acting IRS Human Capital Officer should:

**Recommendation 1:** Clarify guidance to the Labor Relations/Employee Relations staff to assure that cases are timely closed on the ALERTS within 180 calendar days of the case being opened on the ALERTS or within 10 calendar days of the employee's receipt of a decision letter.

**Management's Response:** The IRS Human Capital Officer agreed with this recommendation and will provide clarifying guidance to field Labor Relations/Employee Relations staff reminding them of the importance of timely closing cases on ALERTS within 10 calendar days of the employee's receipt of a case closing event (*i.e.*, decision letter). The IRS Human Capital Officer will also remind the staff of the agency's goal to process TIGTA Reports of Investigation within 180 calendar days from the date received in the servicing Labor Relations office.

---

<sup>16</sup> Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government* (Sept. 2014).

<sup>17</sup> A complaint is any allegation of criminal or administrative misconduct, mismanagement, or other impropriety within the TIGTA's oversight purview of Federal tax administration, including allegations of misconduct by IRS employees, the IRS Office of Chief Counsel, the IRS Oversight Board, or TIGTA.

<sup>18</sup> See Appendix IV.

<sup>19</sup> TIGTA, Ref. No. 2016-10-068, *Programming Changes Would Allow More Accurate Tracking of Fair Tax Collection Practices Violations* (Sept. 2016).



---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

**Recommendation 2:** Review the 14 closed complaint cases not entered into the ALERTS in FY 2016 and determine whether the complaints are FTCP violations.

**Management's Response:** The IRS Human Capital Officer agreed with this recommendation and determined that four cases were entered into the ALERTS in FY 2017. One case was not referred to the Employee Issues Branch. One case was entered into the ALERTS at the end of FY 2016. One case was retransmitted to the IRS for adjudication, which is pending. One complaint was identified as closed without action. Of the remaining six, one case was referred for information purposes only on TIGTA Office of Investigations Form 2070A, *Complaint Referral Memorandum—Referred for Information Only*. Five cases were properly worked as FTCP cases; however, there were no findings of an FTCP violation. These cases were closed without action. The one pending case will be appropriately worked through the process.

**Office of Audit Comment:** After receiving the IRS Human Capital Officer's response, we met with IRS Human Capital Office management to clarify the one complaint that was entered into the ALERTS at the end of FY 2016. IRS Human Capital Office management confirmed that the complaint was not entered into the ALERTS as an FTCP violation but was combined with a previous investigation that is still under review.

**No Fair Tax Collection Practices Civil Actions Resulted in Monetary Settlements to Taxpayers**

Internal Revenue Code § 7433 provides that a taxpayer may bring a civil action for damages against the Federal Government if an officer or employee of the IRS recklessly or intentionally, or by reason of negligence, disregards any provision of the Internal Revenue Code or related regulation in connection with the collection of Federal tax. There were no civil actions resulting in monetary awards for damages to taxpayers because of an FTCP violation in FY 2016.



---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

## **Appendix I**

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

Our overall objective was to obtain information on any reported IRS administrative or civil actions resulting from violations of the FTCP (Internal Revenue Code § 6304) for cases closed during FY<sup>1</sup> 2016. This audit did not address potential violations not reported to the IRS or TIGTA. To accomplish this objective, we:

- I. Identified the number of reported FTCP violations resulting in administrative actions for cases closed during FY 2016.
  - A. Obtained data for all cases posting to the ALERTS during FY 2016 and performed tests to determine whether the data were reasonable. For example, tests determined that date fields contained dates, blank fields were explainable, fields contained only applicable data required for that field, and gaps in the sequential order of case numbers were explainable. The data were determined to be reliable for our purposes.
  - B. Performed queries of the ALERTS for FTCP issue codes<sup>2</sup> to identify cases that were closed during FY 2016, and determined whether any cases resulted in administrative action. We verified that the employee was performing specific collection activities and that the affected party was a taxpayer or taxpayer representative.
  - C. Performed queries of the ALERTS to identify potentially miscoded FTCP violation cases that were closed during FY 2016 for which the affected party was a taxpayer or taxpayer representative and the case involved the employee performing collection-related activities.
  - D. Identified any cases coded as potential FTCP violations on the Criminal Results Management System<sup>3</sup> and determined if those cases were coded correctly on the ALERTS.
- II. Identified the number of FTCP violations resulting in IRS civil actions (judgments or awards granted) by requesting a computer extract from the Office of Chief Counsel's Counsel Automated System Environment database of any Subcategory 6304 (established to track FTCP violations) cases closed during FY 2016. We did not conduct validation tests of this system.

---

<sup>1</sup> 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.

<sup>2</sup> See Appendix VI for a list of FTCP violation issue codes.

<sup>3</sup> The Criminal Results Management System provides TIGTA with the ability to manage and account for the complaints received, investigations initiated, and leads developed from law enforcement initiatives.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

**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 guidance used to code and work potential FTCP violation cases, FTCP provisions used to identify potential violations, and the ALERTS audit control log to substantiate the removal of cases from the database. We evaluated these controls by interviewing management, performing queries of ALERTS data, and comparing Criminal Results Management System cases with FTCP-related violation codes to the issue codes assigned for cases received in the ALERTS.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

---

**Appendix II**

*Major Contributors to This Report*

Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)

Troy D. Paterson, Director

Gerald T. Hawkins, Audit Manager

Catherine R. Sykes, Lead Auditor

Melinda H. Dowdy, Senior Auditor



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

---

**Appendix III**

*Report Distribution List*

Commissioner  
Office of the Commissioner – Attn: Chief of Staff  
Deputy Commissioner for Operations Support  
Director, Office of Legislative Affairs  
Director, Office of Audit Coordination





---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

## Appendix IV

### Outcome Measures

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

#### **Type and Value of Outcome Measure:**

- Reliability of Information – Actual; three cases (see page 3).

#### **Methodology Used to Measure the Reported Benefit:**

Our review of FTCP violations on the IRS Human Capital Officer's ALERTS that were closed in FY<sup>1</sup> 2016 identified that two recorded FTCP violations should have been recorded as misconduct cases and one misconduct case should have been recorded as an FTCP violation.

#### **Type and Value of Outcome Measure:**

- Reliability of Information – Potential; four cases (see page 3).

#### **Methodology Used to Measure the Reported Benefit:**

Separate from our review of FTCP violations,<sup>2</sup> we identified four additional collection employee misconduct cases that were not closed timely on the ALERTS. Each of the four cases were untimely closed on the ALERTS in FY 2017 with FY 2016 closing dates. The Internal Revenue Manual states that the IRS should close a case on the ALERTS within 10 calendar days of the employee's receipt of a decision letter (event)<sup>3</sup> and that cases should be closed on the ALERTS within 180 calendar days of being opened on the ALERTS.

#### **Type and Value of Outcome Measure:**

- Reliability of Information – Potential; 14 cases (see page 3).

---

<sup>1</sup> 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.

<sup>2</sup> We identified this issue while validating the FY 2016 ALERTS data used in this audit.

<sup>3</sup> Events can include, but are not limited to, settlements, decision letters, management recommendations, *etc.*



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

**Methodology Used to Measure the Reported Benefit:**

During FY 2016, the TIGTA Office of Investigations referred 14 complaints<sup>4</sup> to the IRS that were not entered into the ALERTS and were not reviewed to determine if they were violations of the FTCP.

---

<sup>4</sup> A complaint is any allegation of criminal or administrative misconduct, mismanagement, or other impropriety within TIGTA's oversight purview of Federal tax administration, including allegations of misconduct by IRS employees, the IRS Office of Chief Counsel, the IRS Oversight Board, or TIGTA.



---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

**Appendix V**

*Fair Tax Collection Practices Provisions*

To ensure equitable treatment of debt collectors in the public and private sectors, the IRS Restructuring and Reform Act of 1998<sup>1</sup> requires the IRS to comply with certain provisions of the Fair Debt Collection Practices Act.<sup>2</sup> Specifically, the IRS may not communicate with taxpayers in connection with the collection of any unpaid tax:

- At unusual or inconvenient times.
- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS and the IRS knows or can easily obtain the representative's name and address.
- At the taxpayer's place of employment, if the IRS knows or has reason to know that such communication is prohibited.

In addition, the IRS may not harass, oppress, or abuse any person in connection with any tax collection activity or engage in any activity that would naturally lead to harassment, oppression, or abuse. Such conduct specifically includes, but is not limited to:

- Use or threat of violence or harm.
- Use of obscene or profane language.
- Causing a telephone to ring continuously with harassing intent.
- Placement of telephone calls without meaningful disclosure of the caller's identity.

---

<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 768-769.

<sup>2</sup> 15 U.S.C. §§ 1601 note, 1692-1692p (2010).



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

**Appendix VI**

*Fair Tax Collection Practices  
Violation Issue Codes*

<b>Issue Code</b>	<b>Description</b>
141	CONTACT TAXPAYER UNUSUAL TIME/PLACE – Valid only for Collection employees. Contacting a taxpayer before 8:00 a.m. or after 9:00 p.m., or at an unusual location or time, or at a location known or which should be known to be inconvenient to the taxpayer.
142	CONTACT TAXPAYER WITHOUT REPRESENTATIVE – Valid only for Collection employees. Contacting a taxpayer directly without the consent of the taxpayer’s Power of Attorney.
143	CONTACT AT TAXPAYER EMPLOYMENT; WHEN PROHIBITED – Valid only for Collection employees. Contacting a taxpayer at his or her place of employment when it is known or should be known that the taxpayer’s employer prohibits the taxpayer from receiving such communication.
144	TAXPAYER HARASSMENT IN A TAX COLLECTION MATTER – Valid only for Collection employees. Any allegation of taxpayer harassment should be reviewed along with Internal Revenue Code § 6304 because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. Conduct that is intended to harass a taxpayer or conduct that uses or threatens to use violence or harm is an absolute violation of the Internal Revenue Code.
145	TAXPAYER ABUSE IN A TAX COLLECTION MATTER – Valid only for Collection employees. Any allegation of taxpayer abuse should be reviewed along with Internal Revenue Code § 6304 because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. The use of obscene or profane language towards a taxpayer is an absolute violation of the Internal Revenue Code.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

146	CONTINUOUS PHONE HARRASSMENT – Valid only for Collection employees. Causing a taxpayer’s telephone to ring continuously with harassing intent.
147	PHONE CALL WITHOUT IDENTIFICATION DISCLOSURE – Valid only for Collection employees. Contacting a taxpayer by telephone without providing a meaningful disclosure of the IRS employee’s identity.

Source: *IRS ALERTS User Manual (December 2016)*.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

**Appendix VII**

*Management's Response to the Draft Report*



HUMAN CAPITAL OFFICE

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

SEP 8 2017

MEMORANDUM FOR MICHAEL E. MCKENNEY  
Deputy Inspector General for Audit

FROM:

Katherine M. Coffman  
IRS Human Capital Officer

SUBJECT:

Draft Audit Report – Four Fair Tax Collection Practice Violations  
Resulted in Administrative Actions in Fiscal Year 2016  
(Audit #201710006)

Thank you for the opportunity to review the draft audit report, Four Fair Tax Collection Practice Violations Resulted in Administrative Actions in Fiscal Year 2016, dated August 4, 2017. We understand the importance of closing cases timely on the ALERTS system and share TIGTA's concern. We will take appropriate corrective actions to lessen any adverse impact on our reporting capabilities.

We strive to close cases timely as indicated in the Internal Revenue Manual and to ensure TIGTA Reports of Investigation (ROI) are processed within 180 calendar days from the date a case is received in Labor Relations (LR). All TIGTA ROIs are received electronically in ALERTS and transmitted to the servicing LR offices via a SharePoint site; hence, there is always some delay between the cases being loaded to ALERTS and when they are received in the servicing LR office. Measurement of the 180 days begins once a case is received by the appropriate office.

With respect to the 14 complaints referenced as not entered into the ALERTS system, we determined that four cases were entered into ALERTS in Fiscal Year 2017. One case was not referred to the Employee Issues Branch (EIB). One case was entered into ALERTS at the end of Fiscal Year 2016. One case was re-transmitted to the IRS for adjudication, which is pending. One complaint was identified as closed without action. Of the remaining six, one case was referred for information purposes only on Form 2070A. Five cases were properly worked as Fair Tax Collection Practice (FTCP) cases; however, there were no findings of a FTCP violation. These cases were closed without action.

With respect to the four cases cited as not closed timely on the ALERTS, we concur with the determination these cases were not closed timely on ALERTS. However, the case that was cited as closing 232 calendar days after it was received in LR was a Merit Systems Protection Board appeal of a removal action on a previous conduct case. Therefore, it was not a TIGTA ROI case, and should not be considered under the 180-calendar day processing goal.



*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

2.

Attached is a detailed response outlining the corrective actions the Human Capital Office will take to address your recommendations. If you have any questions, please contact me at (202) 317-7600, or a member of your staff may contact Constance Weaver, Acting Director, Workforce Relations Division, at (312) 292-4200.

Attachment





---

*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

1

Attachment

**RECOMMENDATION 1:**

Clarify guidance to the Labor Relations/Employee Relations staff to assure that cases are timely closed on the ALERTS within 180 calendar days of the case being opened on the ALERTS or within 10 calendar days of the employee's receipt of a decision letter.

**CORRECTIVE ACTIONS:**

IRS Human Capital Officer agrees with this recommendation. We will provide clarifying guidance to field Labor Relations/Employee Relations staff reminding them of the importance of timely closing cases on ALERTS within 10 calendar days of the employee's receipt of a case closing event (i.e. decision letter). We will also remind the staff of the agency's goal to process TIGTA ROI's within 180 calendar days from the date received in the servicing LR office.

**IMPLEMENTATION DATE:**

PROPOSED: October 15, 2017

**RESPONSIBLE OFFICIAL(S):**

Director, Workforce Relations Division (WRD), IRS Human Capital Officer (HCO)

**CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), upload supporting documentation into JAMES with Forms 13872 Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/RE. These corrective actions will be monitored on a monthly basis until completion.

**RECOMMENDATION 2:**

Review the 14 closed complaint cases not entered into the ALERTS in FY 2016 and determine whether the complaints are FTCP violations.

**CORRECTIVE ACTIONS:**

We determined that four cases were entered into ALERTS in Fiscal Year 2017. One case was not referred to the Employee Issues Branch (EIB). One case was entered into ALERTS at the end of Fiscal Year 2016. One case was re-transmitted to the IRS for adjudication, which is pending. One complaint was identified as closed without action. Of the remaining six, one case was referred for information purposes only on Form 2070A. Five cases were properly worked as Fair Tax Collection Practice (FTCP) cases; however, there were no findings of a FTCP violation. These cases were closed without action.

The one pending case referenced above will be appropriately worked through the process.

**IMPLEMENTATION DATE:**

PROPOSED: February 15, 2018





*Four Fair Tax Collection Practices Violations Resulted  
in Administrative Actions in Fiscal Year 2016*

---

2

**RESPONSIBLE OFFICIAL(S):**

Director, Workforce Relations (WRD), IRS Human Capital Officer (HCO)

**CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), upload supporting documentation into JAMES with Forms 13872 Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/RE. These corrective actions will be monitored on a monthly basis until completion.