



*Fiscal Year 2018 Statutory Review of
Disclosure of Collection Activities
on Joint Returns*

July 25, 2018

Reference Number: 2018-30-053

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

Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS

FISCAL YEAR 2018 STATUTORY REVIEW OF DISCLOSURE OF COLLECTION ACTIVITIES ON JOINT RETURNS

Highlights

Final Report issued on July 25, 2018

Highlights of Reference Number: 2018-30-053
to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) requires the IRS to disclose 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. 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 employees are not required to record or monitor joint filer requests for information on collection activities, systems have not been designed to specifically capture such information, and there is no legal requirement for the IRS to do so. While TIGTA does not recommend the creation of a separate tracking system, it determined that improvements can be made to the Internal Revenue Manual (IRM) sections and training materials regarding what the law requires and allows when receiving requests for disclosure of collection information pursuant to either I.R.C. § 6103(e)(7) or § 6103(e)(8).

TIGTA reviewed a sample of IRS system case history files and interviewed employees from the Accounts Management function, Taxpayer Assistance Centers, and the Taxpayer Advocate Service to determine how employees responded or would respond to taxpayer requests for information from a jointly filed return if the individuals filing the return are no longer married or no longer reside in the same household. Both the sampled case reviews and interviews showed that employees are not always aware of the disclosure requirements for joint filer taxpayer contacts.

Inconsistent guidance and the lack of training on the appropriate response to these inquiries are contributing to employee misunderstanding. Instead of having several sources for employees to research to determine the correct response to joint filer requests, there should be one source with detailed guidance so employees can consistently provide the correct response.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS update all IRM sections used as disclosure guidance for taxpayer inquiries of collection activities of joint returns by replacing them with a referral to the Disclosure IRM; update the Disclosure IRM to include details and examples of collection activity and mirrored account information that may be disclosed; and update training materials so employees are aware of these type of inquiries and the appropriate responses.

In response to the report, IRS officials agreed with two of the four recommendations and plan corrective actions. However, the IRS disagreed on updating the IRM sections to refer employees to the Disclosure IRM and updating the Disclosure IRM sections. TIGTA believes the Disclosure Office should ensure that IRS employees have sufficient and accurate guidance related to taxpayers' disclosure-related inquiries, since the purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees' obligations under the disclosure laws.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 25, 2018

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2018 Statutory Review of Disclosure
of Collection Activities on Joint Returns (Audit # 201830004)

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 Section 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. This audit is included in our Fiscal Year 2018 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 V. Copies of this report are also being sent to the Director, Office of Audit Coordination, for appropriate distribution within the IRS.

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



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Abbreviations

ACS	Automated Collection System
AMS	Account Management Services
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TAC	Taxpayer Assistance Center
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Taxpayer Bill of Rights 2 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.¹ I.R.C. § 6103(e)(7) authorizes the IRS to disclose the information that may be disclosed to the taxpayer under I.R.C. § 6103(e)(8) to the authorized representative of the joint filer. 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 more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which requires 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 Joint Committee on Taxation staff has advised the IRS Office of Legislative Affairs that the IRS's practice of providing oral responses to taxpayers is acceptable and complies with statutory requirements even though I.R.C. § 6103(e)(8) requires that the disclosures be in writing.

The IRS Restructuring and Reform Act of 1998 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.² We cannot readily identify the population of cases in which joint filers made such requests. 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 contact representatives responsible for answering incoming taxpayer calls at Automated Collection System (ACS) call sites and found that the information that should be disclosed under I.R.C. § 6103(e)(8) and under I.R.C. § 6103(e)(7) was

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

² 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.).



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not always being provided. We made recommendations to update the Internal Revenue Manual (IRM) to provide clear guidance.³

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.; the Small Business/Self-Employed Division Headquarters located in Lanham, Maryland; Accounts Management function offices in Denver, Colorado; Jacksonville, Florida; and Cleveland, Ohio; Taxpayer Assistance Center (TAC) offices in Van Nuys, California; Chicago, Illinois; and Harlem, New York; and Taxpayer Advocate Service (TAS) offices in Sacramento, California; Des Moines, Iowa; and Portsmouth, New Hampshire, during the period October 2017 through May 2018. 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.

³ TIGTA, Ref. No. 2017-30-058, *Fiscal Year 2017 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2017).



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Results of Review

Requests for Collection Activity on Jointly Filed Tax Returns Are Not Identified or Tracked

IRS employees are not required to record or monitor joint filer requests for information on collection activities, and systems have not been designed to specifically capture such information. As such, neither TIGTA nor the IRS could identify the population of joint filer contacts related to I.R.C. § 6103(e)(8) requirements. During this review, management from the Small Business/Self-Employed Division; the TAS; and the Privacy, Governmental Liaison, and Disclosure Office commented that the IRS's position has not changed from the last fiscal 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.

Over the last three years, we have interviewed employees about how they respond or would respond to I.R.C. § 6103(e)(8) requests and have queried system case history files in an attempt to identify the full population of cases. This year we identified some cases for which taxpayers requested collection information for joint filed returns by making queries of taxpayer case history files. The results of our interviews and case history queries for this year's audit are included in this report.

This is the twentieth year in which we have reported that the IRS does not identify or track this information. While TIGTA does not recommend the creation of a separate tracking system, we have identified employee noncompliance with the IRS policy that implements provisions of I.R.C. §§ 6103(e)(7) and 6103(e)(8), and recommend improvements to the IRM sections and training materials related to these taxpayer requests.

Updated Guidance and Training Would Clarify What Information Internal Revenue Service Employees May Disclose

We reviewed IRS system history files and interviewed IRS employees to determine how employees responded or would respond to taxpayers requests from a jointly filed return if the individuals filing the return are no longer married or no longer reside in the same household.

Computer system history files showed employees were not always aware of the disclosure requirements for joint filer taxpayer contacts

As part of this year's review, we queried IRS system history files in an attempt to independently identify the population of I.R.C. § 6103(e)(8) joint filer disclosure contacts made during



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Calendar Year 2017. We performed queries on the history files using specific combinations of key words associated with separated or divorced joint filer disclosures to determine whether these word combinations would solely and completely identify joint filer disclosure contacts. We could not identify the population of I.R.C. § 6103(e)(8) disclosure contacts based on key word searches; however, we did identify a population of taxpayers who potentially were related to these types of contacts in both the Integrated Collection System (ICS) and the Account Management Services (AMS) case histories.⁴

We identified 439 ICS case histories and 138 AMS case histories that potentially related to an I.R.C. § 6103(e)(8) request in which an individual requested collection activity information on a previously filed joint return, but was no longer married or no longer resided in the same household with the other individual. We reviewed 193 ICS case histories to identify 30 cases and 71 AMS case histories to identify 32 cases that were directly related to the joint filer requests. Based on our review of these samples, we determined that I.R.C. §§ 6103(e)(7) and (e)(8) were not followed in 16 of 30 ICS cases and eight of 32 AMS cases. The errors included:

- 16 cases (10 ICS and six AMS) in which employees informed the taxpayer that they could not disclose any information on an ex-spouse even though the return was filed jointly.
- 6 cases (four ICS and two AMS) in which employees did not disclose any information to the taxpayer because the account was “mirrored.” Mirrored accounts separate a joint account into two accounts, one for each of the taxpayers. The two mirrored accounts remain jointly liable; however, establishing two accounts provides the IRS a means to track collection activity unique to each of the (former) spouses.
- *****1*****
*****1*****.

Of the cases that we identified in which there was not proper disclosure, all 24 were worked by Collection function employees (the ICS is used by revenue officers, and the AMS is used by ACS employees). The ICS results were unexpected, considering that all of the revenue officers we interviewed for our report two years ago appeared to understand the procedures related to these taxpayer inquiries.⁵ Many of the errors involved complex issues and more detail, and examples in the IRM may have helped prevent these errors.⁶

⁴ The ICS is a system used by Collection function field employees (revenue officers) to report taxpayer case time and activity. The AMS provides a common user interface that allows users to update taxpayer accounts, view history and comments from other systems, and access a variety of case processing tools. Histories from ACS, Accounts Management function, and Field Assistance employees are included in the AMS.

⁵ TIGTA, Ref. No. 2016-30-060, *Fiscal Year 2016 Statutory Review of Disclosure of Collection Activities on Joint Returns* p. 6 (Aug. 2016).

⁶ IRM 5.1.22.3 (Oct. 21, 2011).



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As previously described, the purpose of a mirrored account is to separate a joint account into two accounts so that the accounts of the jointly liable taxpayers can reflect differences that may be unique to one of the spouses. For example, collection activity could continue for one spouse who the IRS determined is able to pay, while the other spouse is designated as currently not collectible when the IRS determined he or she is unable to pay. As part of last year's review, we interviewed employees at ACS call sites and determined that ACS employees had an inconsistent understanding about how to handle cases involving mirrored accounts. IRS management agreed with our recommendation to update the IRM to provide ACS employees with more information about what the law requires, by including examples of collection activity and mirrored account information that may be disclosed to a spouse who has been assessed a joint tax when he or she requests information (orally or in writing) under I.R.C. §§ 6103(e)(7) and (e)(8). In June 2017, the IRM was updated for ACS employees to refer to the Disclosure IRM for rules that apply to joint filers.⁷ Additionally, in March 2018, the IRS updated the IRM used by ACS employees to include eight detailed scenarios of joint filer contacts on mirrored accounts. These scenarios included different types of collection activity and specifically what employees could and could not disclose.⁸

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 36 employees: three managers and nine customer service representatives from the Accounts Management function; three managers and nine individual taxpayer advisory specialists from TACs; and three managers and nine case advocates from the TAS.⁹ The interviews were to determine what information they would disclose from a jointly filed return if the individuals filing the return are no longer married or no longer reside in the same household.¹⁰ The interviews showed that there continues to be uncertainty about what IRS employees should disclose when responding to taxpayers related to their jointly filed return when their account is separated (mirrored account). The majority of Accounts Management function, TAC, and TAS employees incorrectly stated that they could not disclose any information from the other joint filer's mirrored account because it is a separate account. Additionally, we reviewed the training materials for Accounts Management function, TAC, and TAS employees and did not identify any specific disclosure guidance for responding to joint filer inquiries in the Accounts Management function and TAC training materials. The TAS provided excerpts from two mirrored account training courses that included reference to disclosures for joint filers; however, the training was not consistent or complete. For example, one of the training courses only referred to spouses, not mentioning that these inquiries can also be from divorced and separated joint filers, as well as incorrectly stating that the requests must

⁷ IRM 5.19.1.2.2 (Jun. 30, 2017).

⁸ IRM 5.19.5.4.11.1 (Mar. 9, 2018).

⁹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

¹⁰ We interviewed three employees and one manager at each location.



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be in writing. In the other training course, it is unclear whether the disclosure requests can be made either verbally or in writing.

We reviewed the IRM sections used by Accounts Management function, TAC, and TAS employees, including the Disclosure IRM. The purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees' obligations under the disclosure laws.¹¹ The IRM sections used do not provide consistent guidance for joint filer inquiries. For example, the Disclosure IRM includes:

*...information provided pursuant to I.R.C. §6103(e)(8) would be otherwise available to either spouse due to I.R.C. §6103(e)(1), and to the extent I.R.C. §6103(e)(7) does not prohibit release, **a written or verbal request can be accepted.***¹² (emphasis added)

The Disclosure IRM does not mention how to respond to joint filer inquiries when there are mirrored accounts. The IRM used by Accounts Management function employees includes:

*I.R.C. 6103(e) provides that certain limited collection information regarding one spouse must be disclosed to the other spouse relative to tax deficiencies with respect to a jointly filed return where the individuals filing such return are no longer married or no longer reside in the same household. **Requests must be made in writing. This applies to the mirrored module.***¹³ (emphasis added)

The Disclosure IRM accurately reflects the IRS's policy to honor both written and verbal requests. However, the Accounts Management function IRM contradicts the IRS's policy by instructing employees to honor only taxpayer requests made in writing. Although the IRM used by TAC employees does not include information on how to handle joint filer requests, it does refer employees to the Disclosure Help Desk for any disclosure questions and includes a reference to the Disclosure IRM section.¹⁴ The IRM used by TAS employees does not provide any direction on how to respond to joint filer requests.

Although the Disclosure IRM accurately reflects the IRS's policy with respect to written and verbal requests, it does not provide detailed guidance on what types of collection activity can be disclosed to joint filers and what can be disclosed for mirrored accounts related to the joint filer requests. Specifically, the Disclosure IRM provides that the following information shall be disclosed upon receipt of a proper request from an ex-spouse who has been assessed the joint tax:

- Whether the IRS has attempted to collect the deficiency from the other spouse.
- The amount collected, if any, and the current collection status, *e.g.*, notice, Tax Delinquent Account, installment agreement, suspended.

¹¹ IRM 11.3.1.1(3) (Apr. 4, 2008).

¹² IRM 11.3.2.4.1.1 (Jan. 26, 2017).

¹³ IRM 21.6.8.3 (Nov. 17, 2016).

¹⁴ IRM 21.3.4.24 (Nov. 25, 2013).



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- If suspended, the reason for suspension, *e.g.* unable to locate, hardship, *etc.*¹⁵

However, as we reported last year, this detail is not always sufficient in responding to joint filer inquiries. The Disclosure IRM provides examples of collection activity that can be disclosed, but it does not limit the disclosure to this collection activity; therefore, there may be confusion about what collection activities can be shared with an ex-spouse. For example, the Disclosure IRM does not provide employees with instructions about whether they may disclose:

- The receipt of an offer in compromise, the status of the offer, and the amount of the offer.
- If a seizure occurred, if the property was sold, and the sale amount.
- Whether a refund has offset any portion of the liability.
- The existence of a continuous levy.

More specific instructions and examples would help to ensure that employees disclose information that taxpayers are entitled to receive, as well as protect the privacy of taxpayers when information should not be disclosed. Therefore, the Disclosure IRM should be updated to provide appropriate guidance for IRS employees to reference when responding to taxpayers' inquiries.

Based on our review of case histories and interviews with employees, there is inconsistency in how employees are responding to taxpayers' requests for collection information on their previously jointly filed returns when they are no longer married or no longer reside in the same household. Inconsistent guidance and the lack of training on the appropriate response to these inquiries are contributing to employee misunderstanding. Instead of having several sources for employees to research to determine the correct response to these joint filer requests, we believe that there should be one source with detailed guidance so employees can consistently provide the correct response. Because the Disclosure function is responsible for providing the instructions, guidelines, and procedures related to disclosure laws, the Disclosure IRM could be updated to provide this guidance, and the other IRM sections should direct employees to the Disclosure IRM. This change will eliminate the need to update multiple IRM sections when new legislation and/or changes in policy affecting disclosure need to be implemented.

Recommendations

Recommendation 1: The Deputy Commissioner for Services and Enforcement should require all IRM sections used as guidance by employees who respond to taxpayer inquiries on

¹⁵ IRM 11.3.2.4.1.1(5) (Jan. 26, 2017).



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disclosure of collection activities with respect to joint returns be updated to refer to the Disclosure IRM and when necessary to contact the Disclosure Help Desk.

Management's Response: The IRS disagreed with this recommendation. IRS management stated that the purpose of IRM 11.3, *Disclosure of Official Information*, is to provide general guidance on the IRS's interpretation of I.R.C. § 6103. The IRM is not intended to relay specific operational procedures and direct the work performed by business unit employees responsible for handling taxpayer inquiries on collection matters. The Disclosure Help Desk assists employees with unique or complex disclosure matters that are not covered by existing functional guidance and may require expertise in interpreting I.R.C. § 6103 provisions. IRS employees with disclosure related questions are expected to review the IRM for appropriate guidance before contacting the Disclosure Help Desk for assistance.

Office of Audit Comment: There is continued uncertainty by IRS employees on what they should disclose when responding to taxpayer questions related to their jointly filed return when their account is separated (mirrored account). In addition, although the Disclosure Office stated that it reviews the functional IRMs before publication, there are inconsistencies in the various IRM guidance. For example, the TAC IRM does not provide any specific disclosure-related guidance, other than to refer its employees to the Disclosure Office IRM and Help Desk. The purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees' obligations under the disclosure laws. We therefore maintain the Disclosure Office should ensure that IRS employees have sufficient and accurate guidance related to the disclosure laws.

Recommendation 2: The Commissioner, Wage and Investment Division, should include the appropriate response to taxpayer inquiries on disclosure of collection activities with respect to joint returns, including when the accounts are mirrored, in the training materials to make employees aware of these type of inquiries and the appropriate responses.

Management's Response: The IRS agreed with this recommendation. The Wage and Investment Division will include information on disclosure of collection activities on joint returns, including mirrored accounts, in applicable training modules. The training materials will include examples with the appropriate inquiry responses.

Recommendation 3: The National Taxpayer Advocate should ensure the mirrored account training materials are consistent and complete to include the appropriate response to taxpayer inquiries on disclosure of collection activities with respect to joint returns when the taxpayers are no longer married or no longer reside in the same household and ensure that this guidance is included in other disclosure-related training courses.

Management's Response: The IRS agreed with this recommendation. The National Taxpayer Advocate will coordinate with the Wage and Investment Division to ensure that mirrored account training materials are consistent and complete. This will be done by



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ensuring that the materials include the appropriate responses to taxpayers when inquiring on the disclosure of collection activities concerning joint returns when taxpayers are no longer married or reside in the same household. The IRS will ensure that the guidance is included in other disclosure related training courses used by the TAS.

Recommendation 4: The Chief Privacy Officer should update the Disclosure IRM sections to include details and examples of collection activity and mirrored account information that may be disclosed to a taxpayer who has been assessed a joint tax, but is no longer married or no longer resides in the same household, when he or she requests information (orally or in writing) under I.R.C. §§ 6103(e)(7) and (e)(8).

Management's Response: The IRS disagreed with this recommendation. IRS management stated that the purpose of IRM 11.3, *Disclosure of Official Information*, is to provide general guidance on the IRS's interpretation of I.R.C. § 6103 and it is not the appropriate IRM to direct specific business unit operational procedures.

Office of Audit Comment: Our recommendation does not require or imply the Disclosure Office to direct specific business unit operational procedures. We recommended the Disclosure Office update the Disclosure IRM with specific details and examples on appropriate disclosures under I.R.C. §§ 6103(e)(7) and (e)(8). The purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees' obligations under the disclosure laws.



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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. Contacted IRS management personnel in the Small Business/Self-Employed Division to determine if an IRS system or process has been implemented since our last review that tracks joint filer requests and the IRS's responses for collection information related to the requirements of I.R.C. § 6103(e)(8).
- II. 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 related to the requirements of I.R.C. § 6103(e)(8).
 - A. Contacted the appropriate National Taxpayer Advocate management personnel to determine if the Taxpayer Advocate Management Information System has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.
 - B. Contacted the appropriate IRS management personnel responsible for the E-TRAK system to determine if the E-TRAK system has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.¹
 - C. Contacted the appropriate Privacy, Governmental Liaison, and Disclosure Office management personnel to determine if the Automated Freedom of Information Act System has been modified since our last review to track taxpayer complaints related to joint filer requests for collection information.
- III. Received assistance from TIGTA's Applied Research and Technology group in identifying a population of separated and/or divorced taxpayers with disclosure-related contacts in Fiscal Year 2017. We reviewed 193 ICS case histories to identify 30 sample cases and 71 AMS case histories to identify 32 sample cases that were directly related to the joint filer requests and determined the IRS's compliance with the requirements of I.R.C. § 6103(e)(7).

¹ The E-TRAK system is a web-based, Service-wide document tracking application that assists IRS leadership and business operating divisions with their ability to timely and effectively manage their responses to issues raised by taxpayers and to monitor internal correspondence.



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- IV. Determined if Accounts Management function, TAC, and TAS employees have any experience with I.R.C. § 6103(e)(8) and/or § 6103(e)(7) requests.
- A. Reviewed the IRM sections used by Accounts Management function, TAC, and TAS employees for guidance on discussing collection activity.
 - B. Reviewed other guidance or training materials provided to Accounts Management function, TAC, and TAS employees to determine if they have received any instructions on disclosure of joint filer information requests.
 - C. Interviewed a judgmental sample of Accounts Management function, TAC, and TAS employees to determine how they respond to inquiries about collection activity on taxpayer accounts.² We interviewed one manager and three employees in each location.

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 conducting interviews with Collection function personnel who receive these requests.

² A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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Appendix II

Major Contributors to This Report

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Julia K. Woods, Information Technology Specialist (Data Analytics)



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Appendix III

Report Distribution List

Deputy Commissioner for Services and Enforcement
National Taxpayer Advocate
Deputy Commissioner, Small Business/Self-Employed Division
Director, Campus Collection, Small Business/Self-Employed Division
Director, Collection, Small Business/Self-Employed Division
Director, Field Collection, Small Business/Self-Employed Division
Director, Headquarters Collection, Small Business/Self-Employed Division
Director, Office of Audit Coordination



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Appendix IV

*Recent Audit Reports Related
to This Statutory Review¹*

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

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

TIGTA, Ref. No. 2015-30-050, *Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns* (May 2015).

TIGTA, Ref. No. 2016-30-060, *Fiscal Year 2016 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2016).

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

¹ This list provides the most recent five of the 19 previous reports issued by TIGTA.



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Appendix V

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

July 11, 2018

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Mary Beth Murphy *Mary Beth Murphy*
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2018 Statutory Review of
Disclosure of Collection Activities on Joint Returns (Audit
#201830004)

Thank you for the opportunity to review the subject draft report. TIGTA is required to annually review and certify the IRS's compliance with Internal Revenue Code (IRC) § 6103(e)(8), which 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.

We recognize that taxpayers who are divorced or separated can be in a difficult position with respect to a tax debt on a joint return for which they remain liable. We are 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. As a result of last year's TIGTA audit on this subject, we updated the Internal Revenue Manual (IRM) to clarify that taxpayer requests may be made orally as well as in writing and to provide Automated Collection System employees with more detail and examples of collection activity and mirrored account information that may be disclosed to a spouse or former spouse in this situation.

This year TIGTA reviewed a sample of IRS system case history files and interviewed a sample of employees from Accounts Management, Taxpayer Assistance Centers, and the Taxpayer Advocate Service (TAS) about these procedures. TIGTA found that employees in these organizations are not always aware of the disclosure requirements for joint filer taxpayer contacts, and suggested that inconsistent guidance and a lack of training are contributing to these misunderstandings.

TIGTA recommended that we expand on last year's corrective action and update all sections of the IRM used as disclosure guidance for taxpayer inquiries of collection activities of joint returns by replacing them with a referral to the Disclosure IRM, and that



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the Disclosure IRM be updated to include details and examples of collection activity and mirrored account information that may be disclosed. TIGTA also recommended that the Wage & Investment Division (W&I) and the TAS update their training materials so employees are aware of these types of inquiries and the appropriate response.

IRS employees with disclosure related questions first look to their functional IRMs for appropriate guidance before contacting Disclosure. Consequently, an appropriate way to address TIGTA's concerns is to ensure that each functional IRM and associated training materials include the information that employees need to navigate the disclosure issues particular to joint filers.

As noted above, SB/SE Collection recently updated the IRM to provide Automated Collection System employees with more detail and examples of collection activity and mirrored account information that may be disclosed to a spouse in this situation. We will provide guidance with similar examples to Field Collection employees.

W&I agrees with TIGTA's recommendation to make similar changes to its training. TAS will use W&I's updated course material. TAS' existing training materials utilized in conjunction with the updated W&I training material provide the appropriate guidance.

The purpose of the Disclosure IRM, however, is to provide employees with general guidance on IRS's interpretation of IRC Section § 6103. This IRM is not designed to relay specific operational procedures and direct the work performed by business unit employees. It provides general disclosure guidance to business units and is not intended to replace business unit guidance and instructions to employees handling routine tax cases and the inquiries they encounter in performing their work. Therefore, we disagree with TIGTA's recommendation to replace the functional IRM provisions addressing disclosure issues with a simple referral to the Disclosure IRM. We note that the W&I and SB/SE IRM provisions addressing disclosure already reference the Disclosure IRM as an additional resource for employees.

We will continue our efforts to provide good customer service and make appropriate disclosures of information when responding to requests made under these sections of the IRC, while remaining mindful of our statutory obligation to protect the confidentiality of taxpayer data. Attached is a detailed response outlining our planned corrective actions. If you have any questions, please contact me, or Paul Mamo, Director, Collection Operations.

Attachment



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Attachment

RECOMMENDATION 1:

The Deputy Commissioner for Services and Enforcement should require all IRM sections used as guidance by employees who respond to taxpayer inquiries on disclosure of collection activities with respect to joint returns be updated to refer to the Disclosure IRM and when necessary to contact the Disclosure Help Desk.

CORRECTIVE ACTION:

We disagree with this recommendation. The purpose of IRM 11.3 *Disclosure of Official Information*, is to provide employees with general guidance on IRS interpretation of IRC Section § 6103. This IRM is not intended to relay specific operational procedures and direct the work performed by business unit employees responsible for handling taxpayer inquiries in collection matters. In addition, the Disclosure Help Desk provides assistance to employees with unique or complex disclosure matters that are not covered by existing functional guidance and may require Disclosure subject matter expertise in interpreting IRC 6103 provisions. IRS employees with disclosure related questions are expected to review their functional IRMs for appropriate guidance before contacting Disclosure for assistance.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 2:

The Commissioner, Wage and Investment Division, should include the appropriate response to taxpayer inquiries on disclosure of collection activities with respect to joint returns, including when the accounts are mirrored, in the training materials to make employees aware of these type of inquiries and the appropriate responses.

CORRECTIVE ACTION:

We agree with the recommendation. We will include information on disclosure of collection activities on joint returns, including mirrored accounts, in the applicable training modules. The training materials will include examples with appropriate responses.

IMPLEMENTATION DATE:

January 15, 2019



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RESPONSIBLE OFFICIAL:

Director, Accounts Management, Customer Account Services, Wage and Investment Division

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 ensure the mirrored account training materials are consistent and complete to include the appropriate response to taxpayer inquiries on disclosure of collection activities with respect to joint returns when the taxpayers are no longer married or no longer reside in the same household and ensure this guidance is included in other disclosure-related training courses used.

CORRECTIVE ACTIONS:

We agree with the recommendation. We will coordinate with W&I to ensure that mirrored account training materials are consistent and complete to include the appropriate response to taxpayer inquiries on disclosure of collection activities with respect to joint returns when the taxpayers are no longer married or no longer reside in the same household. We will ensure that this guidance is included in other disclosure-related training courses used by TAS.

IMPLEMENTATION DATE:

July 15, 2019

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 Chief Privacy Officer should update the Disclosure IRM sections to include details and examples of collection activity and mirrored account information that may be disclosed to a taxpayer who has been assessed a joint tax, but is no longer married or no longer resides in the same household, when he or she requests information (orally or in writing) under I.R.C. §§ 6103(e)(7) and (e)(8).



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CORRECTIVE ACTION:

We disagree. The purpose of Disclosure's IRM 11.3 is to provide employees with general guidance on IRS interpretation of Internal Revenue Code (IRC) Section § 6103. This is not the appropriate IRM to direct specific Business Unit operational procedures.

The Disclosure staff will continue to provide Section § 6103 advice and guidance to business units developing disclosure procedures and review functional IRMs before publication.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A