

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2022 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers**

August 24, 2022

Report Number: 2022-30-054

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

# HIGHLIGHTS: Fiscal Year 2022 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers

Final Audit Report issued on August 24, 2022

Report Number 2022-30-054

## Why TIGTA Did This Audit

This audit was initiated because TIGTA is required to annually report on the IRS's compliance with provisions of the law that restrict the direct contact of taxpayers who are represented. For this year's review, TIGTA analyzed the extent to which Small Business/Self-Employed Division Field Collection employees comply with the direct contact provisions of Internal Revenue Code (I.R.C.) § 7521 and fair tax collection practices of I.R.C. § 6304(a)(2) during interactions with taxpayers or their representatives. The Taxpayer Bill of Rights (I.R.C. § 7803(a)(3)(I)) also guarantees the right of representation for taxpayers before the IRS.

## Impact on Tax Administration

If taxpayers' rights to representation are not adhered to by the IRS, they might not receive the benefits under the law and procedures to which they are entitled, and they may experience adverse outcomes.

## What TIGTA Found

The IRS has a number of policies and procedures to help ensure that taxpayers are afforded the right to designate an authorized representative to act on their behalf in a variety of tax matters. In addition, the IRS has a process to handle the review and disposition of taxpayer allegations of direct contact violations.

TIGTA selected a statistically valid stratified sample of 105 taxpayers from a population of 1,365 taxpayers who had collection actions documented in case history narratives by Field Collection employees between October 1, 2020, and September 30, 2021. TIGTA reviewed the case history narratives for these sampled taxpayers and found no instances in which the Field Collection employee violated a taxpayer's rights under I.R.C. § 7521 and fair tax collection practices of I.R.C. § 6304(a)(2).

While the majority of Field Collection employees appeared to be familiar with the direct contact provisions and fair tax collection practices, not all revenue officers are familiar with the requirements of the provisions.

TIGTA interviewed a judgmental sample of 20 revenue officers out of the 2,505 Field Collection employees as of September 30, 2021. When presented a hypothetical situation involving a revenue officer's response to a taxpayer asking to speak to a certified public accountant for an opinion on the issue at hand, four of the 20 revenue officers did not state that they would suspend or reschedule the interview. Sixteen of the 20 who would end the interview would allow consultation times that ranged from two to 30 calendar days. The revenue officer is to allow a minimum of 10 business days for the consultation with an authorized representative after a suspended interview.

When presented hypothetical situations involving taxpayers requesting or already having a power of attorney, the majority of revenue officers would require the appropriate form to designate a power of attorney but do not know to request an updated form when all open tax periods are not covered.

## What TIGTA Recommended

TIGTA recommended that the IRS issue a reminder memorandum to all revenue officers and group managers reemphasizing the importance of revenue officers following established guidelines and procedures on the taxpayer's right to representation and direct contact. The IRS agreed with our recommendation and plans to issue a formal reminder to all revenue officers and group managers.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**  
**WASHINGTON, D.C. 20024**

August 24, 2022

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:**

*Heather Hill*

Heather M. Hill  
Deputy Inspector General for Audit

**SUBJECT:**

Final Audit Report – Fiscal Year 2022 Statutory Review of Restrictions on  
Directly Contacting Represented Taxpayers (Audit # 202230008)

This report presents the results of our review to determine whether the Internal Revenue Service is in compliance with legal guidelines addressing the direct contact of taxpayers and their representatives set forth in the Internal Revenue Code (I.R.C.) §§ 7521(b)(2) and (c) and the fair tax collection practices set forth in I.R.C. § 6304 (a)(2). This review is part of our Fiscal Year 2022 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

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

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendation. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

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## Background

Taxpayers have a right to representation in matters before the Internal Revenue Service (IRS).<sup>1</sup> Internal Revenue Code (I.R.C.)<sup>2</sup> §§ 7521(b)(2) and (c) provide taxpayers the right to representation during interviews.<sup>3</sup> I.R.C. § 6304(a) also protects taxpayers' rights to representation by prohibiting IRS contact of a taxpayer if it knows the taxpayer is represented.<sup>4</sup>

The effort to determine whether the IRS is complying with I.R.C. §§ 7521(b)(2) and (c) (hereafter referred to as the direct contact provisions) and other provisions of the law protecting the right to representation is complicated by the fact that the IRS cannot proactively identify IRS employee violations of this law. The Treasury Inspector General for Tax Administration's (TIGTA) Office of Investigations receives complaints and initiates investigations based on those complaints. The Office of Investigations tracks those complaints and investigations using its Criminal Results Management System. From October 1, 2020, to September 30, 2021, the Office of Investigations did not receive any specific complaints alleging that an IRS employee bypassed taxpayer representatives and contacted taxpayers directly.

To designate power of attorney (POA) authority to a representative, a taxpayer files Form 2848, *Power of Attorney and Declaration of Representative*, with the IRS. Once received and validated, the IRS records the representative's authorization in its Centralized Authorization File, a computerized system of records that houses authorization information from both the POAs and tax information authorizations. This file is linked to other IRS applications and is used by many IRS functions to determine when a taxpayer is working with an authorized representative.

Identifying the authorized representative during audit or collection activities is critical for IRS personnel because I.R.C. § 6103 prohibits disclosure of tax return information to third parties unless the taxpayer has authorized the IRS to make the disclosure. In addition, the direct contact provisions of I.R.C. § 7521 enacted on November 10, 1988, as part of the Omnibus Taxpayer Bill of Rights, created a number of safeguards to protect the rights of taxpayers interviewed by IRS employees as part of a tax examination or collection action.<sup>5</sup> Specifically, IRS employees are required to:

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<sup>1</sup> Internal Revenue Code §§ 7803(a)(3)(I), 7521 (b)(2), and 6304 (a)(2).

<sup>2</sup> See Appendix III for a glossary of terms.

<sup>3</sup> I.R.C. § 7521(b)(2) provides: *If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.*

<sup>4</sup> I.R.C. § 6304(a)(2) provides: *The Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer.*

<sup>5</sup> Pub. L. No. 100-647, 102 Stat. 3730 (1988) (codified as amended in scattered sections of 26 U.S.C.).

- Stop the interview (unless required by court order) whenever a taxpayer requests to consult with a representative, *i.e.*, any person, such as a certified public accountant (CPA) or attorney, who is permitted to represent taxpayers before the IRS.
- Obtain their immediate supervisor's approval to contact the taxpayer instead of the representative if the representative unreasonably delays the completion of an examination, collection, or investigation.

The IRS Restructuring and Reform Act of 1998 was enacted into law and directed the IRS to revise Publication 1, *Your Rights as a Taxpayer*, to better inform taxpayers of these rights.<sup>6</sup> In addition, this Act added I.R.C. § 7803(d)(1)(A)(ii), which requires TIGTA to annually evaluate the IRS's compliance with the direct contact provisions.<sup>7</sup> TIGTA has previously performed 23 annual reviews to meet this requirement, and Appendix II lists the five most recent audit reports related to this statutory review.

## **Results of Review**

### **The IRS Has a Process to Handle the Review and Disposition of Taxpayer Allegations of Direct Contact Violations**

IRS management can track situations in which a taxpayer is denied the right to appropriate representation when the taxpayer or representative files a complaint with the IRS, TIGTA, the Taxpayer Advocate Service, or a congressional Representative or Senator. The IRS stated that violations are also brought to the attention of IRS managers during case reviews and during the normal course of taxpayer examinations. Further, the IRS has a process to ensure that reported allegations of direct contact violations are reviewed to determine if there was any employee misconduct. However, the IRS has not put a system in place to systemically track violations of the direct contact provisions.

The IRS Labor and Employee Relations and Negotiations Division's Employee Issues Branch receives, processes, and tracks all complaint referrals, *e.g.*, allegations not investigated by TIGTA, as well as reports of investigation that TIGTA forwards to the IRS. These complaint referrals are assigned, tracked, and recorded on the E-trak database.

For those complaint referrals for which there is action taken by IRS management, the dispositions of the complaint referrals (including any disciplinary actions for substantiated allegations) are entered into the Automated Labor and Employee Relations Tracking System. The use of this system also helps ensure consistency in recording employee misconduct and disciplinary actions.

During our review, we requested a report of complaint referrals related to potential direct contact violations received between October 1, 2020, and September 30, 2021, by the Employee Conduct and Compliance Office maintained on the E-trak database. There were no referred

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<sup>6</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>7</sup> I.R.C. § 7803(d)(1)(A)(ii).

cases during this time with allegations of possible contact with taxpayers without their representative's consent.

### **Field Collection Employees Followed Procedures That Protect a Taxpayer's Right to Representation in All Cases Reviewed**

This year's review focused on potential taxpayer rights and direct contact issues related to Small Business/Self-Employed (SB/SE) Division's Field Collection employees. The Field Collection employees record actions and decisions taken on cases within the Integrated Collection System (ICS).<sup>8</sup> These recorded actions and decisions are the historical narratives for cases in collection (hereafter referred to as case history narratives).

To determine how well the IRS is complying with the direct contact provisions of the I.R.C., we obtained individual Field Collection ICS case history narratives data for all open and archived cases with actions recorded between October 1, 2020, and September 30, 2021. Overall, there were 8,553,581 history narrative lines for 1,590,535 unique taxpayers. Using statistical software, we searched and then filtered these records using keywords and phrases which may indicate that a potential direct contact or fair tax collection violation took place.<sup>9</sup> We filtered these results to remove ICS case history narratives that would indicate when the IRS followed procedures and would not be subject to our review and removed them from our population. Our initial search and subsequent filters found 2,299 unique history narrative lines for 1,365 unique taxpayers.

We selected a stratified statistically valid sample of 105 taxpayers from the population of 1,365 taxpayers who had collection actions documented in their ICS case history narratives by Field Collection employees (revenue officers) during Fiscal Year 2021.<sup>10</sup> We stratified the case histories into five strata based on the keywords and phrases search. Our contract statistician confirmed the sample of 105 cases, with 49 cases in the largest stratum and 14 cases each in four separate strata.<sup>11</sup> We reviewed the ICS case history narratives for these sampled taxpayers based on the I.R.C. criteria below.

Both I.R.C. §§ 7521(b)(2) and (c) and I.R.C. § 6304(a)(2) address a taxpayer's right to representation. The provisions of I.R.C. §§ 7521(b)(2) and (c) apply in most interactions any IRS employee may have with a taxpayer when the taxpayer explicitly exercises their right to consult with an authorized representative during an interview. The interview should be stopped to allow the taxpayer time to consult with a representative such as a POA, CPA, attorney, or any person who is permitted to represent the taxpayer before the IRS.

I.R.C. § 6304(a)(2) provides that IRS employees may not communicate with taxpayers, without taxpayer consent or a court order, when they know that the taxpayer has obtained an authorized representative to handle the collection matter. The Internal Revenue Manual (IRM) advises staff to remain mindful that I.R.C. § 6304(a)(2) generally precludes the IRS from directly communicating with a represented taxpayer in connection with the collection of any unpaid

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<sup>8</sup> Internal Revenue Manual 5.1.10.8 (1) (Dec. 11, 2018).

<sup>9</sup> See Appendix I, Figure 1, for the keywords and phrases searched.

<sup>10</sup> Our sample size was determined by using a 95 percent confidence level, 5 percent error rate, and  $\pm 5$  percent precision using five strata.

<sup>11</sup> See Appendix I, Figure 1, for a summary of strata by keyword/phrase searched.

taxes. However, the procedures provide the following three conditions, which all must be met in order for a revenue officer to work directly with a represented taxpayer:

1. The taxpayer initiates the contact to resolve the issue on the account.
2. The taxpayer expresses a specific desire to resolve the issue without the involvement of their representative after the IRS employee has advised the taxpayer of the current representation.
3. The taxpayer's desire to have the IRS work directly with the taxpayer instead of the representative is properly documented in the case file.<sup>12</sup>

In addition, an IRS employee may communicate with a represented taxpayer in connection with the collection of any unpaid tax if the taxpayer's authorized representative gives prior consent to the communication.<sup>13</sup>

[REDACTED]

After further research of the ICS case history narratives and discussion with the IRS, we determined that these instances were not violations of I.R.C. § 6304(a)(2).

In addition, we researched the ICS case histories for the 105 taxpayers in our sampled cases and determined that 59 taxpayers had a POA on file at the time of the narrative entry. Of those 59 cases, there were eight cases in which the revenue officer worked with the taxpayer directly.

- In [REDACTED] of these eight cases, the POA agreed to the contact between the taxpayer and revenue officer.

- [REDACTED]

<sup>14</sup>

We provided the pertinent information for the latter case and our observations to Field Collection management. They provided [REDACTED]

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<sup>12</sup> IRM 5.1.23.6 (Dec. 26, 2019).

<sup>13</sup> IRM 5.1.23.6 (Dec. 26, 2019).

<sup>14</sup> IRM 5.1.10.6.1 (March 24, 2020) provides that contacting a taxpayer to update or validate representation when all periods are not listed on Form 2848 does not constitute a violation of taxpayer rights nor does it constitute a bypass procedure because the taxpayer is not represented with respect to the unresolved periods.





## **Not All Revenue Officers Are Familiar With Direct Contact Provisions**

In October 2021, we obtained an organizational chart containing the names of 2,505 Field Collection employees as of September 30, 2021, and interviewed a judgmental sample of 20 revenue officers.<sup>15</sup> To determine if they had a clear understanding of the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c) and knowledge of the fair tax collection practices of I.R.C. § 6304(a)(2), we developed scenarios involving communications between a collection employee and a taxpayer when the taxpayer asks to consult with a CPA.

While the majority of employees appeared to be familiar with the direct contact provisions and fair tax collection practices, not all revenue officers are familiar with the requirements of the provisions. We believe that the results of our interviews indicate that a reminder memorandum regarding taxpayer rights to representation would be beneficial for all Field Collection employees.

## **The majority of revenue officers interviewed would cease taxpayer interviews, but the time allowed for CPA consultation was incorrect and varied greatly**

When asked a hypothetical question concerning the response a revenue officer should have after a taxpayer asks to speak to a CPA for an opinion on the issue at hand, four of the 20 revenue officers did not state that they would suspend or reschedule the interview.<sup>16</sup> Two revenue officers stated that they would verify if the taxpayer has an authorized representative on file. One stated that making sure the CPA is actually a CPA would be part of the response. The fourth revenue officer stated that if the taxpayer does not already have a CPA, it does not change the interview going forward. The remaining 16 revenue officers said they would stop the interview immediately, which would allow time for the taxpayer to speak with a CPA.

I.R.C. § 7521(b)(2) requires revenue officers to immediately suspend the interview at the point that the taxpayer requests to speak with an authorized representative (unless it was initiated by administrative summons). Specifically, it states:

*If the taxpayer clearly states to an [IRS employee] at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the [IRS], such [IRS*

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<sup>15</sup> Employees were selected judgmentally from the SB/SE Division Field Collection areas of North Atlantic, South Atlantic, Central, Gulf States, Northwest, Southwest, and the Civil Enforcement Advice and Support Operations. Due to the Coronavirus Disease 2019 pandemic, all interviews were conducted by telephone. A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

<sup>16</sup> The question asked was, "During an initial contact with a taxpayer, you are discussing the taxpayer's account (returns). The taxpayer mentions that they would like to speak with their CPA to get their opinion. How would you respond to this request?"

*employee] shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.*

The IRM provides instruction on the law stating that, if a taxpayer states during any interview a desire to consult with an authorized representative, the employee will suspend the interview to permit such consultation.<sup>17</sup> As previously mentioned, in our interviews, four of the 20 revenue officers responded that they would not have suspended or rescheduled the interview if a taxpayer stated they would like to speak with their CPA to get an opinion.

We asked the IRS why these four revenue officers would not have suspended or rescheduled the interview in our scenario and were told that our use of the word “opinion” might have been confusing to them because the IRM states “consult.” The revenue officer may have felt the intention in the scenario was something other than a consultation. While this is a hypothetical situation, the revenue officer should suspend the interview to allow the taxpayer time to consult with a CPA. The taxpayer has a right to representation, and by not ending the interview, the revenue officer may be in violation of this right.

The second part of this hypothetical scenario pertained to the amount of time a taxpayer is allowed to consult with an authorized representative. When asked the amount of time the taxpayer should be allowed to consult with a CPA after the suspension of an interview, revenue officers responded with times that ranged from two to 30 calendar days. While the revenue officer has some discretion on the amount of time to allow, this is not entirely correct. The revenue officer is to allow a minimum of 10 business days for the consultation with an authorized representative after a suspended interview, and the revenue officer should inform the taxpayer of the consequences if the representative fails to contact the employee within the 10 business days.<sup>18</sup>

If revenue officers are not aware of the requirement to allow a minimum of 10 business days, taxpayers may not receive the full amount of allotted time. If a taxpayer has never had representation before, the full 10 business days or more may be required to find, interview, and obtain competent and authorized representation.

### **The majority of revenue officers would require the Form 2848 to designate a POA and recognize the validity of the form when all open tax periods are not covered**

When asked what action(s) are needed for the taxpayer to make the CPA an authorized representative, two of the 20 revenue officers stated verbal acknowledgement by the taxpayer of the authorized representative was acceptable. One of the two revenue officers stated that, while a Form 2848 should normally be filed, the taxpayer may also send an e-mail or call to inform the revenue officer of addition of the authorized representative. The second revenue officer stated that the taxpayer could verbally assign an authorized representative. The other 18 revenue officers interviewed stated that the taxpayer should submit a Form 2848 to the IRS.

To designate POA authority to a representative, a taxpayer may file Form 2848 with the IRS.<sup>19</sup> Although other written documentation can be used to provide the authority for a designated individual to act on behalf of another person, verbal notification of an authorized representative

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<sup>17</sup> IRM 5.1.10.7.1 (1.) (Nov. 20, 2017).

<sup>18</sup> IRM 5.1.10.7.1 (Nov. 20, 2017).

<sup>19</sup> IRM 5.1.10.7.2 (Oct. 12, 2021).

is not sufficient. Form 2848 requires information from not only the taxpayer but also the potential authorized representative. It also requires information on tax matters, tax forms, and tax periods. This form is designed to protect taxpayers from bad actors posing as representatives and unintentional disclosure violations by the IRS.

By not correctly declaring an authorized representative, the taxpayer may be opened up to misrepresentation by someone who is not authorized to practice before the IRS. By using an unauthorized person, the tax matters may not be resolved as effectively and efficiently as if the representative were authorized. For instance, an unauthorized party may be unaware of the best practices to resolve an issue that could cause unnecessary delays due to their lack of knowledge. Another possible issue would be the potential for disclosure of taxpayer information to a party that is unauthorized to receive this information.

During the revenue officer interviews, we presented a scenario where a taxpayer had a representative on file for only a portion of the open tax periods. One of the questions pertaining to this scenario was to ask the revenue officer if the Form 2848 on file for the represented tax periods would be voided due to all periods not being covered by the form. Two of the 20 revenue officers stated they were unsure. The remaining 18 revenue officers stated that the Form 2848 on file would not be voided.

It is correct that the current Form 2848 on file would not be voided due to missing open tax periods. The revenue officer may not speak to the taxpayer concerning the tax periods covered by the form. The IRM contains guidance that instructs revenue officers to contact the taxpayer to secure an updated form if all open tax periods are not reflected on Form 2848.<sup>20</sup>

In addition, to minimize the risk of a disclosure violation, the revenue officer should not solicit an updated Form 2848 from the representative.<sup>21</sup> Contacting a taxpayer to update or validate representation when all periods are not listed on Form 2848 does not constitute a violation of taxpayer rights nor does it constitute a bypass procedure because the taxpayer is not represented with respect to the unresolved periods.<sup>22</sup> The revenue officer should contact the taxpayer to update the form if able to do so.

Not having all open tax periods covered by a Form 2848 on file with the IRS can lead to confusion and possible disclosure violations. There is no guidance that would prohibit a revenue officer from contacting the representative concerning the covered tax periods. The revenue officer may do this as long as they do not disclose any taxpayer information for the tax periods not covered by the POA.

IRS employees can face consequences if they accidentally or purposefully violate disclosure laws when working with taxpayers and representatives. If revenue officers fail to protect taxpayer rights to representation during interviews or after taxpayers assign their respective authorized representative, their interactions with taxpayers or representatives may be negatively impacted, including their ability to collect on unpaid taxes.

When asked about the training received on taxpayer representation and bypass procedures, 10 of the 20 revenue officers stated it was done as part of the “on boarding” program for new revenue officers. Three others stated that there was no training or that they cannot recall the

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<sup>20</sup> IRM 5.1.10.7.2 (3)(A) (Oct. 12, 2021).

<sup>21</sup> IRM 5.1.10.7.2 (3)(C) (Oct. 12, 2021).

<sup>22</sup> IRM 5.1.10.6.1 (1) (Mar. 24, 2020).

training. One revenue officer had no recollection of any new training on the subject. The lack of refresher training and in-person training due to the Coronavirus Disease 2019 pandemic may have lessened the revenue officers' recollections of what actions should be taken during interviews, time allowed to the taxpayer for consultation, and the importance of a Form 2848 for all tax periods.

The IRS should issue a reminder memorandum to all revenue officers and group managers on the direct contact provisions, fair tax collection practices, and the applicable IRM sections. During our interviews, we also asked the sampled revenue officers and group managers for suggestions on how to improve the overall understanding of the policies and procedures surrounding the direct contact provisions and fair tax collection practices. Those interviewed in both groups believed training is needed to improve the understanding of the policies and procedures. Eight of the 20 revenue officers felt refresher training would improve their understanding. One of the eight revenue officers suggested more "fact-to-face" training on the issues, while another suggested overviews should be provided in group meetings. The majority of group managers, five of the nine, suggested training refreshers would help their teams to improve their overall understanding.

Field Collection management should ensure that all their employees remain mindful of I.R.C. § 6304(a)(2) as well as I.R.C. §§ 7521(b)(2) and (c) and follow established procedures. When IRS employees ensure that taxpayer rights are protected, the IRS's exposure to potentially harmful litigation is limited.

**Recommendation 1:** The Director, Field Collection, SB/SE Division, should issue a reminder memorandum to all revenue officers and group managers reemphasizing the importance of revenue officers following established guidelines and procedures on the taxpayer's right to representation and direct contact.

**Management's Response:** The IRS agreed with our recommendation and will issue a formal reminder to all revenue officers and group managers reemphasizing the importance of revenue officers following established guidelines and procedures on the taxpayer's right to representation and direct contact.

## Appendix I

### Detailed Objective, Scope, and Methodology

Our overall objective of this review was to determine whether the IRS is in compliance with legal guidelines addressing the direct contact of taxpayers and their representatives as set forth in I.R.C. §§ 7521(b)(2) and (c) and the fair tax collection practices set forth in I.R.C. § 6304 (a)(2) and I.R.C. § 7803(a)(3)(I). To accomplish our objective, we:

- Determined what procedures and controls the IRS uses to ensure that employees are following the direct contact provisions and fair tax collection practices.
- Determined how well the IRS is ensuring that taxpayer rights, under the direct contact provisions, fair tax collection practices, and taxpayer rights to representation, are protected by the SB/SE Division during Field Collection actions.
- Determined if the IRS provides training/learning opportunities that adequately address the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c) and the fair tax collection practices of I.R.C. § 6304(a)(2) and whether collection employees have a general understanding of these requirements.
- Selected a judgmental sample of 20 revenue officers from the 2,505 Field Collection employees as of September 30, 2021.<sup>1</sup> We interviewed these employees and presented scenarios and questions pertaining to the direct contact provisions and fair tax collection practices.

### Performance of This Review

This review was performed with information obtained from the SB/SE Division's Collection function during the period October 2021 through June 2022. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Timothy Greiner, Director; Eugenia Smoak, Audit Manager; Dmitri Medvedev, Lead Auditor; and Victor Taylor, Senior Auditor.

### Sampling Methodology

We used TIGTA's contracted statistician to select a statistically valid random sample of ICS case history narratives between October 1, 2020, and September 30, 2021, in which the actions recorded would possibly indicate violations of the direct contact provisions or fair tax collection practices. We conducted case reviews using a 95 percent confidence level, 5 percent error rate, and  $\pm 5$  percent precision and divided the cases into five strata. Based on discussions with our contracted statistician, we calculated that the stratified sample would be 105 cases, with

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

49 cases in one stratum and 14 cases each in four additional separate strata. Figure 1 shows the sample stratified by keyword/ code.

**Figure 1: Summary of Sample by Stratum**

Stratum	Keyword/Phrase	Population of Taxpayers	Sampled Taxpayers
1	"Direct Contact" and "Directly Contact"	130	14
2	"Consult With"	144	14
3	"IRC 7521" and "Stop Interview"	188	14
4	"BYPASS" and "4016A"	877	49
5	"IRC 6304" and "5.1.10.6.1"	26	14
	Totals	1,365	105

*Source: TIGTA Applied Research and Technology Data Analytics Team analysis of ICS case history narratives from TIGTA's Data Center Warehouse.*

## **Validity and Reliability of Data From Computer-Based Systems**

We performed tests to assess the reliability of data from ICS case history narratives taken from TIGTA's Data Center Warehouse. We evaluated the data by: 1) performing electronic testing of data elements and 2) reviewing existing information about the data and the system that produced them. We determined that the data were sufficiently reliable for purposes of this report.

## **Internal Controls Methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the IRS's policies, procedures, and practices related to responding to taxpayer and taxpayer representative allegations of IRS employee violations of the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c) and the fair tax collection practices of I.R.C. § 6304(a)(2). We evaluated these controls by contacting management, reviewing IRM guidance provided to managers and employees, identifying closed complaints and investigations from TIGTA's Criminal Results Management System, identifying closed cases tracked on the IRS's E-trak database, reviewing ICS case history narratives associated with the selected cases, and interviewing revenue officers and group managers in SB/SE Division's Field Collection.

## Appendix II

### Previous Audit Reports Related to This Statutory Review

TIGTA, Report No. 2021-30-054, *Fiscal Year 2021 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Aug. 2021).

TIGTA, Report No. 2020-30-046, *Fiscal Year 2020 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Aug. 2020).

TIGTA, Report No. 2019-30-076, *Fiscal Year 2019 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Sept. 2019).

TIGTA, Report No. 2018-30-070, *Fiscal Year 2018 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Sept. 2018).

TIGTA, Report No. 2017-30-076, *Fiscal Year 2017 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Sept. 2017).



## Appendix III

### Management's Response to the Draft Report



COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

August 15, 2022

MEMORANDUM FOR HEATHER M. HILL  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Lia Colbert **Amalia C. Colbert** Digitally signed by Amalia C. Colbert  
Commissioner, Small Business/Self-Employed Division Date: 2022.08.16 07:23:05 -04'00'

SUBJECT: Draft Audit Report – Fiscal Year 2022 Statutory Review of  
Restrictions on Directly Contacting Represented Taxpayers  
(Audit #202230008)

Thank you for the opportunity to review and comment on the subject draft audit report, which evaluates whether the IRS complied with the statutory requirements involving the direct contact provisions of Internal Revenue Code (I.R.C.) Section (§) 7521 and fair tax collection practices of I.R.C. § 6304(a)(2) during interactions with taxpayers or their representatives. The IRS is committed to helping taxpayers meet their tax responsibilities while ensuring that the rights of the taxpayer are respected and protected by the agency.

As the report noted, TIGTA did not find any instances of an employee violating the direct contact provisions of I.R.C. Sections (§) 7521 and § 6304(a)(2). We are extremely proud of our employees' commitment to protecting taxpayer rights. Nonetheless, we agree with your recommendation to issue a formal reminder to all Field Collection revenue officers and group managers on the importance of following established guidelines and procedures to protect taxpayer rights.

We appreciate TIGTA's review of our program and your insights and recommendations. The IRS is committed to protecting taxpayer rights and will continue to work to safeguard the integrity of the federal tax system.

Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or Frederick W. Schindler, Director, Collection, Small Business/Self-Employed Division.

Attachment



Attachment

**RECOMMENDATION #1:**

The Director, Field Collection, SB/SE Division should issue a reminder memo to all revenue officers and group managers reemphasizing the importance of revenue officers following established guidelines and procedures on the taxpayer's right to representation and direct contact.

**CORRECTIVE ACTION:**

The Director, Field Collection, will issue a formal reminder to all revenue officers and group managers reemphasizing the importance of revenue officers following established guidelines and procedures on the taxpayer's right to representation and direct contact.

**IMPLEMENTATION DATE:**

October 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Field Collection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

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

## Appendix IV

Glossary of Terms

Term	Definition
Automated Labor and Employee Relations Tracking System	An application used to track labor/employee relations case data. It was developed to ensure consistency in tracking labor and employee relations disciplinary actions.
Centralized Authorization File	A computerized system of records which houses authorization information from both POAs and tax information authorizations. It contains several types of records, among them taxpayers, representatives, tax forms, tax periods, and authorizations.
Criminal Results Management System	TIGTA's Office of Investigations system that provides the ability to manage and account for all complaints received, investigations initiated, and leads developed from law enforcement initiatives.
Data Center Warehouse	A TIGTA repository of IRS data.
E-trak	A web interface that easily allows business requirements to be translated into systemic configuration for case management and case tracking covering multiple IRS business functions.
Field Collection	An IRS function within the SB/SE Division that helps taxpayers understand and comply with all applicable tax laws and applies the tax laws with integrity and fairness. It is also responsible for protecting the revenue and the interests of the Government through direct collection and enforcement activity with taxpayers or their representatives.
Fiscal Year	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.
Integrated Collection System	A system used by Field Collection function employees (revenue officers) to report taxpayer case time and activity.
Internal Revenue Code	The body of law that codifies all Federal tax laws, including income, estate, gift, excise, alcohol, tobacco, and employment taxes. These laws constitute Title 26 of the United States Code. The United States Code is a consolidation and codification by subject matter of the general and permanent laws of the United States.
Internal Revenue Manual	The primary, official source of IRS instructions to staff related to the organization, administration, and operation of the IRS.
Power of Attorney	A taxpayer's written authorization for a designated individual or individuals to perform certain specified acts on the taxpayer's behalf.
Revenue Officer	Employees in the Field Collection function who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses.

## Appendix V

### Abbreviations

CPA	Certified Public Accountant
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
POA	Power of Attorney
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration



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(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.