TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Fiscal Year 2022 Statutory Review of Potential Fair Tax Collection Practices Violations

September 13, 2022

Report Number: 2022-30-056

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

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Why TIGTA Did This Audit

The objective of this review was to determine whether the IRS is complying with the provisions of Internal Revenue Code § 6304 to identify, investigate, and report on potential violations of the Fair Tax Collection Practices (FTCP) by IRS employees and potential violations of the Fair Debt Collection Practices Act (FDCPA) by private collection agency (PCA) employees, including any related administrative or civil actions resulting from those violations.

This information will be used to comply with the IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G) requirement that TIGTA include in one of its Semiannual Reports to Congress information regarding administrative or civil actions related to FTCP.

Impact on Tax Administration

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

What TIGTA Found

Part of our challenge in reviewing alleged FTCP violations on the part of IRS Collection employees is that the identification of potential FTCP violations is in part dependent on Collection managers closely monitoring the interactions of their employees with taxpayers and reporting potential FTCP violations to the IRS Human Capital Office. Labor specialists in that office track and evaluate the potential FTCP violation on the Automated Labor and Employee Relations Tracking System (ALERTS) database. In light of some challenges that this sort of self-reporting system poses, TIGTA endeavors to engage IRS Collection managers and employees to determine if they understand FTCP violations and their reporting obligations. The same sorts of limitations apply to the reporting of PCA employees' potential FDCPA violations.

Accordingly, TIGTA interviewed a judgmental sample of 12 Collection group managers and found that 42 percent (five of 12) of managers were not aware of the process for reporting potential FTCP violations by their revenue officers. We also interviewed 24 revenue officers, and three of them indicated that no type of monitoring of their interactions with taxpayers had been completed by their respective group manager during Fiscal Year 2021.

Our review of all 35 employee misconduct cases coded as FTCP violations identified four cases that were incorrectly coded as FTCP violations. In addition, our review of 167 Small Business/Self-Employed Division employee misconduct cases closed in Fiscal Year 2021 that could potentially relate to violations of taxpayers' FTCP rights (but were not coded as FTCP potential violations) identified two cases that should have been coded as FTCP violations by labor relations specialists. Both misconduct cases involved employees who potentially violated Internal Revenue Code § 6304.

Separate from the review of IRS FTCP violations, TIGTA identified 25 potential FDCPA violations and one potential FTCP violation by PCA employees. The disciplinary actions taken by the PCAs on the 26 incidents in Fiscal Year 2021 were found to be consistent with the respective PCA's discipline policies.

What TIGTA Recommended

TIGTA recommended that the IRS: 1) review the miscoded cases to ensure that a proper analysis of the FTCP violation is conducted and the correct issue code is applied, 2) issue a memorandum to collection managers reinforcing the procedures to be used when addressing taxpayer or representative complaints on IRS employee misconduct, and 3) remind group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

In their response, IRS management agreed with all three of our recommendations and plans to take corrective actions.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

September 13, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2022 Statutory Review of Potential Fair Tax Collection Practices Violations (Audit # 202230005)

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 § 6304 to identify, investigate, and report on potential violations of the Fair Tax Collection Practices by IRS employees and potential violations of the Fair Debt Collection Practices Act[1] by private collection agency employees, including any related administrative or civil actions resulting from those violations. 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 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 Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

[1] 15 United States Code § 1601 note, 1692–1692p (2010).

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Background

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

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

IRS and PCA employees are required to follow the FTCP, similar to those in the FDCPA.

On December 4, 2015, the Fixing America's Surface Transportation Act was signed into law.[4] Section 32102 of the Act includes a provision that requires the IRS to use private collection agencies (PCAs) to collect on cases involving certain inactive tax receivables. Any contract between the IRS and a private collector must prohibit the collector from committing any act or omission that IRS employees are prohibited from committing in the performance of similar duties.[5] These prohibitions include communicating at inconvenient times and places, contacting represented taxpayers (with certain exceptions), calling the taxpayer at work if the collector knows the taxpayer's employer prohibits such calls, and various other types of harassment and abuse. In addition, the law provides that the provisions of the FDCPA shall apply to any qualified tax collection contract.[6] If the PCA violates the FDCPA, the law insulates the U.S. Government from liability and allows the suit to be brought only against the private collector.[7] The IRS began assigning cases to four PCAs in April 2017. On September 22, 2021, the IRS contract with two PCAs ended, and a new PCA was added effective September 23, 2021. While there was no reportable activity for the newest PCA during Fiscal Year (FY) 2021, some general information obtained from this PCA is included in the report. The abuse and harassment of taxpayers by IRS and PCA employees while attempting to collect taxes harm

1 15 U.S.C. §§ 1601 note, 1692–1692p (2018).

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

3 See Appendix III for a detailed description of FTCP provisions.

4 Pub. L. No. 114-94, 129 Stat. 1312 (2015).

5 I.R.C. § 6306(b)(2).

6 I.R.C. § 6306(g).

7 I.R.C. § 7433A(b)(1).

taxpayers and can have a negative impact on voluntary compliance. It is important that taxpayers receive fair and balanced treatment from IRS and PCA employees when they attempt to collect taxes.

Part of our challenge in reviewing alleged FTCP violations on the part of IRS Collection employees is that the identification of potential FTCP violations is in part dependent on Collection managers closely monitoring the interactions of their employees with taxpayers and reporting potential FTCP violations to the IRS Human Capital Office. Labor specialists in that office track and evaluate the potential FTCP violation on the ALERTS database. In light of some challenges that this sort of self-reporting system poses, we endeavor to engage IRS Collection managers and employees to determine if they understand FTCP violations and their reporting obligations. The same sorts of limitations apply to the reporting of PCA employees' potential FDCPA violations. Accordingly, we attempt to gauge the understanding of IRS Collection employees and PCA employees with their obligations under the FTCP and FDCPA through interviews of those employees.

The IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G) 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 I.R.C. § 6304.[8] 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 to removal.[9] Information from this report will be used to meet the requirements of the IRS Restructuring and Reform Act of 1998 § 1102(d)(1)(G).

Results of Review

Generally, Fair Tax Collection Practices Violations Were Accurately Coded in the IRS Employee Relations Database

TIGTA reviewed all 35 employee misconduct cases (containing 39 issues) coded as FTCP violations (one substantiated issue, 35 unsubstantiated issues, and three unresolved issues) and 167 Small Business/Self-Employed (SB/SE) Division Collection function employee misconduct cases (containing 183 issues) coded as non-FTCP violations that were closed on the ALERTS database in FY 2021.[10] There are a total of seven issue codes the IRS uses for FTCP employee

[8] Pub. L. No. 105-206, 112 Stat. 685, 702-703 (1998); I.R.C. § 6304.

[9] A letter of admonishment is a disciplinary action that involves the manager holding a discussion with the employee to advise the employee that they have engaged in misconduct and that the misconduct should not be repeated. The manager confirms the discussion with a written summary in a letter.

[10] A case contains one or more issues. Also, Chapter 5 of the ALERTS manual defines a substantiated issue as proven by facts or evidence to be a true act of misconduct. An unsubstantiated case would be proven by facts or evidence not to be a true act of misconduct. Issues that cannot be proven by evidence are considered unresolved.

violations, numbered from 141 to 147.[11] For the non-FTCP cases, we identified the cases by using 11 issue codes with descriptions that could potentially relate to violations of taxpayers' FTCP rights and four job series codes of employees who could potentially work collection cases and then limited the population to cases related to employees in the SB/SE Division Collection function.[12] Figures 1 and 2 show the number of FTCP and non-FTCP issues we reviewed by issue code and description.

Figure 1: Number of FTCP Violation Issues by Issue Code

Issue Code	Issue Description	Number of Issues
141	I.R.C. § 6304: Contact Taxpayer Unusual Time/Place.	1
142	I.R.C. § 6304: Directly Contacting a Represented Taxpayer Without the Representative's Consent	12[13]
144	I.R.C. § 6304: Taxpayer Harassment in a Tax Collection Matter	17
145	I.R.C. § 6304: Taxpayer Abuse in a Tax Collection Matter	9[14]
	Total	**39**[15]

Source: TIGTA analysis of ALERTS data for cases closed in FY 2021 provided by the IRS.

Figure 2: Number of Non-FTCP Issues by Issue Code

Issue Code	Issue Description	Number of Issues
013	Misuse of Public Office or Authority – Not § 1203 of the IRS Restructuring and Reform Act of 1998	14
020	Fighting, Assault, or Threats – Not § 1203 of the IRS Restructuring and Reform Act of 1998	20
058	Unprofessional Conduct	122
115	§ 1203(b)(6): Violation of the I.R.C., Internal Revenue Manual (IRM), or Treasury Regulations for the Purpose of Retaliation[16]	7
953	Personnel/Labor Relations Issue	16
954	Taxpayer Personal/Business Tax Issues	4
	Total	**183**[17]

Source: TIGTA analysis of ALERTS data for cases closed in FY 2021 provided by the IRS.

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[11] See Appendix IV for more details on FTCP issue codes.

[12] See Appendix V for more details on issue codes we selected.

[13] One substantiated issue involved one misconduct case from an employee in the SB/SE Division's Examination function.

[14] Three unsubstantiated issues involved three misconduct cases from employees in the Wage and Investment Division's Accounts Management operation.

[15] The total number of issues does not reconcile with the number of cases we reviewed because it is possible for a case to include more than one issue code.

[16] Pub. L. No. 105-206, 112 Stat. 721.

[17] The total number of issues does not reconcile with the number of cases we reviewed because it is possible for a case to include more than one issue code.

Our review of the 39 FTCP violations (from 35 misconduct conduct cases) identified four cases that were incorrectly coded as FTCP violations. In addition, our review of the 183 non-FTCP issues (from 167 misconduct cases) identified two cases that should have been coded as FTCP violations.

Some cases were incorrectly coded as FTCP violations

In our review of the 39 issues coded as FTCP violations in the ALERTS database in FY 2021, we identified four cases in which we disagree with the IRS's classification under an FTCP code. As previously mentioned, similar to the FDCPA, the fair tax collection provisions of I.R.C. § 6304 prohibit various collection abuses and harassment by IRS personnel during a collection matter. The four cases we identified did not involve collection matters and therefore should not have been classified under FTCP issue codes. Specifically:

- Three cases coded to FTCP issue code 145 (Taxpayer Abuse in a Tax Collection Matter) involved unprofessional conduct allegations on noncollection matters by customer service representatives in the Wage and Investment Division.
- One case coded to FTCP issue code 142 (Directly Contacting a Represented Taxpayer Without the Representative's Consent) involved an allegation of bypassing an authorized representative in a noncollection matter by a revenue agent in the SB/SE Division. This case was incorrectly closed as substantiated without any recommended disciplinary action. However, after TIGTA requested information on this case, the IRS made a correction on April 25, 2022, to reflect the case as unsubstantiated.

These cases should be reclassified, as necessary, under the appropriate non-FTCP issue code(s). The IRS agreed that the three cases involving unprofessional conduct were miscoded by the labor relations specialist prior to assessing whether the call involved a collection matter. For the remaining case, IRS management explained that an alternative ALERTS issue code does not exist to record a potential violation of a direct contact with a taxpayer without tax representative consent for noncollection matters. Since there was only one case involving a potential direct contact issue and given that it was found to be unsubstantiated, TIGTA will not make a recommendation at this time. However, the IRS should review any future use of this FTCP issue code for noncollection matters and determine whether a non-FTCP ALERTS issue code should be created.

Some non-FTCP–coded employee misconduct cases were FTCP violations

In our review of the 167 employee misconduct cases involving 183 issues coded as non-FTCP violations, we identified two cases closed on the ALERTS database in FY 2021 that were potentially coded incorrectly as non-FTCP violations by labor relations specialists. One of the two cases had the non-FTCP violation issue code 058 (Unprofessional Conduct) and the other one had issue code 013 (Position/Authority Misuse–Not 1203). Specifically:

- [redacted] used harassing and abusive language when communicating with a taxpayer and received a reprimand. [redacted] the employee used abusive language and profanity against the taxpayer at the end of the call. The employee had no prior discipline and received a written reprimand for rude and unprofessional behavior in collection matters. Based on this behavior, we believe the case is miscoded. In response, the IRS agreed with our position, responding that the labor relations specialist should have used issue code 145 and had "forgot to input the issue code 145 in ALERTS." Additionally, the IRS informed TIGTA that the respective section chief has reviewed the FTCP current guidance with the labor relations specialist to ensure that the labor relations specialist is trained moving forward.

- [redacted][18] The employee was also accused of disrupting the workplace, leaving the taxpayer on hold while getting food and drink or surfing the Internet, disrespecting co-workers, using profanity, and retaliating against the taxpayer. However, IRS management's review of the case found that there was no intent by the employee to retaliate or harass. With that said, management did agree that other misconduct occurred and suspended the employee for five days. We asked the IRS to consider our position that the case is potentially miscoded. The IRS responded with its disagreement, clarifying that the misconduct case involved four issues. All charges were sustained; however, with respect to [redacted] it was sustained in the alternative due to lack of evidence. IRS management stated, "There is no evidence of intent to harass the taxpayer or to retaliate against the taxpayer, which is undoubtedly why management chose not to substantiate the [IRS Restructuring and Reform Act of 1998 §] 1203(b)(6) charge and chose to charge in the alternative. Therefore, there is no violation of FTCP as defined in I.R.C. § 6304." However, § 1203 of the IRS Restructuring and Reform Act of 1998 created a statutory provision requiring the termination of IRS employment for certain acts of misconduct. One such act, as described in subsection (b), is retaliating against or harassing a taxpayer, taxpayer representative, or other employee of the IRS. Additionally, I.R.C. § 6304(b) provides that, in connection with collection matters, IRS employees are prohibited from harassing, oppressing, or abusing any person. Based on the nature of this misconduct case, we believe that [redacted] and should be classified as such.

The servicing labor relations specialist is responsible for adding the correct issue code(s) for potential FTCP violation(s) into the ALERTS when the case is initiated by management. When the case is received from the TIGTA Office of Investigations, the TIGTA's designated issue code is automatically translated into an ALERTS issue code based on a programmed interface. Once the case is in the ALERTS, the labor relations specialist can add or revise the issue code(s) while the case is being processed or after the case is closed.

Chapter 5 of the ALERTS manual provides a list of issue codes with issue code descriptions that labor relations specialists choose from for each misconduct case. In February 2020, the IRS revised this chapter to explain that the two areas in which there may be a greater level of confusion or subjectivity are allegations of harassment or abuse of the taxpayer. It goes on to explain that any complaints received concerning allegations of harassment or abuse should contain either Issue Code 144 (harassment) or 145 (abuse) as potential FTCP violations when documenting the record in the ALERTS. As stated above, in the one case in which the IRS agreed, the respective section chief met with the labor relations specialist to review and provide

[18] [redacted]

training on the FTCP current guidance. This corrective action may help prevent future similar miscoding issues by the respective labor relations specialist.

In our FY 2021 FTCP review, TIGTA identified some FY 2020 ALERTS cases that were potentially coded incorrectly as non-FTCP violations by labor relations specialists.[19] The IRS agreed with the recommendation, stating it would review the miscoded cases identified by TIGTA with the appropriate management officials to determine and apply the proper issue code(s). As of December 15, 2021, IRS management completed its corrective action to accurately classify the cases identified during last year's statutory audit. We are making a similar recommendation this year on the FY 2021 ALERTS cases that we identified as misclassified.

Recommendation 1: The IRS Human Capital Officer should review the FY 2021 miscoded cases to ensure that a proper analysis of the FTCP violation is conducted and the correct issue code is applied.

> **Management's Response:** The IRS agreed with this recommendation and will review the potentially miscoded cases identified by TIGTA with the appropriate management officials to determine and apply the proper issue codes.

Administrative Actions Did Not Always Follow Guidelines

Our review of the 35 employee misconduct cases coded as FTCP violations and 167 cases coded as non-FTCP violations for adherence to timeliness guidelines identified 20 cases involving 20 issues that were not resolved within the IRS's stated goal of 180 calendar days in FY 2021. Figure 3 shows the number of untimely cases by issue code.

Figure 3: Number of Issues Not Resolved Within 180 Calendar Days by Issue Code

Issue Code	Issue Description	Number of Cases/Issues[20]
058	Unprofessional Conduct	15
013	Misuse of Public Office or Authority – Not § 1203 of the IRS Restructuring and Reform Act of 1998	2
145	§ 6304 (FTCP): Taxpayer Abuse in a Tax Collection Matter	1
144	§ 6304 (FTCP): Taxpayer Harassment in a Tax Collection Matter	2
	Total	20

Source: TIGTA analysis of ALERTS data for cases closed in FY 2021 provided by the IRS.

The IRM 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) and that investigation cases should be resolved

[19] TIGTA, Report No. 2021-30-068, *Fiscal Year 2021 Statutory Review of Potential Fair Tax Collection Practices Violations* p. 4 (Sept. 2021).

[20] Each of the untimely cases involved one reported issue.

within the IRS's stated goal of 180 calendar days of being received in Labor Relations.[21] The 20 cases were closed between one and 448 calendar days late. The Labor Relations Workforce Relations Division is responsible for ensuring that Labor Relations case management progresses in a timely manner to achieve the goal of closing cases as quickly as possible, with a maximum of 180 calendar days to close absent extenuating circumstances.[22] For each of the 20 cases, there was no mention of any extenuating circumstances.

In response to this issue, the IRS provided a list of some reasons why the 20 cases may have taken longer to process, such as:

- Attrition and labor relations specialists' workload.
- Internal performance issue with the assigned labor relations specialist that has been addressed.
- Pandemic and National Treasury Employees Union nonresponsiveness.
- Management amending or securing final recommendation for disciplinary action.

It is important that cases are closed or resolved timely and closing information is 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, if cases are not resolved in a timely manner, there is the potential that employees with an open misconduct case will continue to violate taxpayer rights through various means, including potential FTCP violations. Finally, the *Standards for Internal Control in the Federal Government* requires that transactions be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions.[23]

TIGTA reported last year that the IRS had issued an information memorandum in March 2020 directing employees who encounter inordinate delays after taking follow-up actions to elevate cases through the proper management chain to expedite their resolution.[24] Compared to last year's review, untimely cases decreased 29 percent, from 28 cases in FY 2020 to 20 cases in FY 2021. Our review found that 13 (65 percent) of the 20 untimely cases in FY 2021 were opened and closed after the March 2020 procedural changes were in effect, indicating that, while there was an improvement, timeliness remains an issue.

Also, in December 2021, TIGTA issued a report that found employee misconduct was not always addressed timely.[25] The report recommended the IRS explore options and collaborate with the appropriate stakeholders to automate employee misconduct case processes, including elevation to higher-level supervisors when appropriate, and upon implementation, train Labor/Employee Relations and Negotiations employees to use the system features to improve case timeliness.

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[21] IRM Exhibit 6.751.1-4 (Nov. 4, 2008) and IRM Exhibit 6.751.1-9 (Nov. 4, 2008); The Human Capital Office's Labor Relations/Employee Relations staff is responsible for opening and closing cases on the ALERTS. Actions can include, but are not limited to, settlements, decision letters, and management recommendations.

[22] IRM 6.751.1.8(2)d (Nov. 4, 2008).

[23] Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government* (Sept. 2014).

[24] TIGTA, Report No. 2021-30-068, *Fiscal Year 2021 Statutory Review of Potential Fair Tax Collection Practices Violations* p. 10 (Sept. 2021).

[25] TIGTA, Report No. 2022-10-011, *Procedures to Address Employee Misconduct Were Followed, but Resolution Time and Quality Review Need Improvement* pp. 4 and 6 (Dec. 2021).

IRS management agreed with the recommendation, stating that they had started testing options for a new case management system that would automate several case processes. IRS management informed TIGTA that, in April 2022, they have started to work on the implementation of a new case management system. Based on the preliminary actions to this recommendation, we are not making any similar recommendation at this time.

Some Managers Are Not Aware of the Process for Reporting Potential Fair Tax Collection Practices Violations

IRS guidelines inform collection group managers as to potential FTCP violations that they may identify during a case review or upon receiving a complaint from a taxpayer and require them to report potential violations of I.R.C. § 6403 to the local labor relations specialist by the close of the next business day following notification of the alleged violation.[26]

We interviewed a judgmental sample of 12 group managers and found that 42 percent (five of 12) of managers interviewed were not aware of the process for reporting potential FTCP violations by their revenue officers.[27] In addition, when asked about the process that taxpayers have available to make a complaint, three (25 percent) of 12 group managers were not familiar with the process by which taxpayers could make an FTCP complaint. The other managers were aware that taxpayers could contact them or TIGTA Office of Investigations to make a complaint. However, this does not discount the fact that a significant number of managers (42 percent) were unfamiliar with the reporting process they should follow after obtaining a taxpayer complaint.

In an attempt to identify the population of cases with potential FTCP violations, we queried the history entries of IRS employees from FY 2021 Integrated Collection System (ICS) open and closed files. We queried for terms that could indicate communication with taxpayers was at an unusual or inconvenient time or place or had oppressive or abusive words, such as, but not limited to, "threaten" and "harass."

We identified 28,624 history narratives containing these terms.[28] We selected and reviewed a judgmental sample of 197 ICS history narratives and found [redacted] that we believe could indicate potential FTCP violations. Specifically, in:

[redacted]

- [redacted]

[26] IRM 1.4.50.3.2.3(1) (Aug. 11, 2021).

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

[28] This is not a unique count, and some narratives may be listed more than once where multiple terms were found.

Since interaction with the taxpayer is entered into the ICS history by the respective revenue officer, it is unlikely the revenue officer's performance/attitude/misconduct and potential FTCP violation would be documented in the history file. Essentially, whether there is an FTCP violation or not depends on how communication with the taxpayer is delivered. [redacted] Also, we did not find any related activity for these taxpayers in the ALERTS database in FY 2021.

SB/SE Division Collection management disagreed that FTCP violations had occurred, stating, [redacted] The FTCP focuses on the conduct of IRS collection personnel while performing collection duties and not necessarily on whether the collection actions taken or proposed by them were appropriate. [redacted]

When questioned, IRS management responded that they have a process in place for taxpayers and/or their representatives to formalize a complaint. Specifically, on their IRS.gov web page under "Reporting other information to the IRS," they cite TIGTA Office of Investigation's phone number with a link to a TIGTA's web page where issues such as an IRS employee crime or misconduct can be reported. However, the description included on the IRS.gov web page includes a general reference about reporting fraud, waste, and abuse. Publication 1, *Your Rights as a Taxpayer*, does not include or reference the FTCP, with the exception of "The Right to Retain Representation;" however, it does include under "The Right to Quality Service" that taxpayers have the right to speak to a supervisor about inadequate service and at the end of the publication includes the phone number for TIGTA Office of Investigations as listed on the previously mentioned web page. In order to ensure that possible FTCP violations are properly reported and investigated, the IRS should reinforce the existing procedures with its managers so they are aware of the reporting process for potential FTCP violations by their employees.

Some employees indicated their managers did not observe any of their interactions with taxpayers in FY 2021

Providing ongoing employee feedback is an essential part of the group manager's responsibility.[29] Managers are required to observe revenue officers interacting with taxpayers, either in the field or the office, one or more times per year.[30] However, in certain situations, it may be necessary for a manager to conduct observations of revenue officer contacts with taxpayers telephonically, such as when the IRS has suspended face-to-face contacts in the interest of the health or safety of the employee or the public.[31] Using alternative methods of monitoring employees is important in this Pandemic environment.

We interviewed a judgmental sample of 24 revenue officers. Three revenue officers stated that no type of monitoring was done in FY 2021 by their group manager. Although face-to-face

[29] IRM 1.4.50.5.2(1) (Aug. 11, 2021).

[30] IRM 1.4.50.5.2(4) (Aug. 11, 2021).

[31] IRM 1.4.50.5.2.3.1 (Aug. 11, 2021).

observation is the preferred method for conducting these reviews, the IRS revised its procedures during the Pandemic to permit telephonic observation. Nine (38 percent) of 24 revenue officers stated that they were observed by their manager via the alternative telephone observation method.

IRS management stated that managers should be aware of their annual mandatory review requirement but added that telephone observation is just one of other possible methods to accomplish this requirement. In an effort to deter undetected issues with employees' efficiency in carrying out laws, IRS policies, and procedures, as well as unreported potential FTCP violations, group managers should be reminded of their annual mandatory observation review requirement and the alternate methods available to satisfy this requirement.

The Director, Field Collection, SB/SE Division, should:

Recommendation 2: Issue a memorandum to collection managers reinforcing the procedures to be used when addressing taxpayer or representative complaints on IRS employee misconduct.

> **Management's Response:** The IRS agreed with this recommendation and will issue a memorandum to collection managers reinforcing the procedures to be used when addressing taxpayer or representative complaints on IRS employee misconduct.

Recommendation 3: Remind group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

> **Management's Response:** The IRS agreed with this recommendation and will issue a memorandum reminding group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

Some Private Collection Agency Employees Potentially Violated the Law When Contacting Taxpayers

PCAs are required to perform quality assurance reviews by sampling telephone calls and other case actions for each call representative using the quality attributes in the *PCA Policy and Procedures Guide*. Results of these reviews must be submitted to the IRS each month in the *PCA Quality Review Report*. The PCAs must also report incidents and threats to TIGTA's Office of Investigations, which in turn must report potential FDCPA violations to the IRS. Some of the PCAs use analytical tools, such as speech analytics, to identify problematic interactions with taxpayers that could escalate into potential FDCPA violations. When potential violations are identified, the PCAs use corrective action reports to document potential FDCPA or FTCP violations and disciplinary actions that were taken against employees.

Up until September 23, 2021, the IRS contracted with the following four PCAs: CBE, ConServe, Performant, and Pioneer. Effective September 23, 2021, the IRS entered into new contracts with the following three PCAs: CBE, ConServe, and Coast Professional Inc.

We reviewed the *PCA Corrective Action Reports* for the four PCAs with activity during FY 2021; *i.e.*, CBE, ConServe, Performant, and Pioneer. Our review identified 26 total potential violations by PCA employees: 25 potential FDCPA violations and one potential FTCP violation. PCA employees received disciplinary actions ranging from coaching or retraining to final written warning. Specifically:

- 1 potential FTCP violation occurred when an employee bypassed the taxpayer's authorized representative and communicated with the taxpayer instead. The employee received disciplinary action including retraining and a verbal warning.
- 13 potential FDCPA violations occurred when employees communicated with an unauthorized third party. The employees received disciplinary actions ranging from retraining to final written warning.
- 7 potential FDCPA violations occurred when PCA employees failed to provide a mini-Miranda to the taxpayer.[32] The employees received disciplinary actions ranging from coaching to verbal warning.
- 5 potential FDCPA violations occurred when employees called taxpayers before 8:00 a.m. or after 9:00 p.m. local time to collect a debt. The employees received disciplinary actions ranging from retraining to written warning.

Compared to last year's review, FDCPA and FTCP violations decreased 47 percent, from 49 incidents in FY 2020 to 26 incidents in FY 2021. The decrease may be due to the IRS suspending new case inventories to the PCAs, pending contract negotiation, starting December 29, 2020, and ending September 22, 2021. However, during this time, the IRS continued to deliver new tax debts on the accounts that were already assigned to the PCAs.

The PCAs each have their own personnel policies to determine discipline for employees who commit a potential FDCPA violation. Disciplinary actions depend on the level of violation and may include remedial training, initial warning, written warning, final warning, suspension, and termination. Some PCA personnel policies also reference a rolling time frame wherein, if enough disciplinary actions accrue, the employee can be terminated. However, an employee can also be terminated after one violation if it is determined to be egregious in nature. These disciplinary actions were consistent with each of the PCA's policies to determine discipline.

It is important for the PCAs to identify potential violations of the law and consistently disclose them to the IRS. All of the PCAs have quality review processes that can potentially identify problematic interactions with taxpayers. Last year, we identified 49 potential violations of the FDCPA or FTCP by PCA employees during our review. However, we did not make a recommendation because the IRS had made recent procedural changes as reported in TIGTA's FY 2020 report. Specifically in August 2020, the IRS updated the Policy and Procedures Guide to include procedures for reconciling and analyzing the corrective action reports to identify trends and/or inconsistencies and provide feedback to the PCA as appropriate. The IRS also revised the corrective action report in December 2020 to include uniform descriptions of potential violations in order to assist the Private Debt Collection Office in analyzing the reports.

The Private Debt Collection Office informed all the PCAs of the trend analysis results from their review of the corrective actions reports and discussed its feedback on potential violations during its calls with all the PCAs in May and November 2021. In addition, the Private Debt Collection Office made the following changes to the corrective action reports section in the Policy and

[32] The mini-Miranda is a statement of rights that debt collectors are legally required to use when contacting an individual to collect a debt. See Appendix VI for more details on FDCPA § 1692e regarding false or misleading representations.

Procedures Guide, effective September 2021: 1) inadvertent unauthorized disclosure and intentional unauthorized disclosure were removed from the potential statutory violation description since they are captured as part of the incident process; 2) Coast Professional Inc. was added; and 3) Pioneer and Performant were removed. Because the PCAs' disciplinary actions on the 26 incidents in FY 2021 were consistent with each of the PCAs' policies to determine discipline, we will not be making any recommendations this year.

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

I.R.C. § 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 I.R.C. or related regulation in connection with the collection of Federal tax.[33] There were no civil actions resulting in monetary awards for damages to taxpayers because of an FTCP violation in FY 2021.

[33] I.R.C. § 7433.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS is complying with the provisions of I.R.C. § 6304 to identify, investigate, and report on potential violations of the FTCP by IRS employees and potential violations of the FDCPA by PCA employees, including any related administrative or civil actions resulting from those violations. To accomplish our objective, we:

- Evaluated the adequacy of controls, requirements, and processes for identifying and reporting FTCP violations in accordance with I.R.C. § 6304 by the IRS and PCAs as well as FDCPA violations by the PCAs in accordance with I.R.C. § 6306(g).
- Obtained data for all cases posting to the ALERTS database for FY 2021.
- Performed queries of the ALERTS for FTCP issue codes to identify cases that were closed during FY 2021 and determined whether any cases resulted in administrative action. We verified that the employee was performing specific collection-related activities and the affected party was a taxpayer or taxpayer representative. We also determined whether the corrective actions taken against the employee were within the recommended penalty levels.
- Performed queries of the ALERTS for non-FTCP issues codes to identify SB/SE Division cases that were closed during FY 2021 to determine whether any of the cases were miscoded and were potential FTCP violations. Selected 11 non-FTCP issue codes with descriptions that could potentially relate to violations of taxpayers' FTCP rights and four job series codes (0526 – Tax Technician, 0592 – Tax Examining Technician, 0962 – Contact Representative, and 1169 – Revenue Officer) that could potentially work within the Collection functions, along with records for which the job series code was blank.
- We reviewed these cases to determine if the employee was performing specific collection-related activities and the affected party was a taxpayer or taxpayer representative.
- Performed queries of the ALERTS for the FTCP to determine if cases were closed within 180 calendar days of being entered into the ALERTS.
- Identified any cases coded as potential FTCP violations on the Criminal Results Management System and determined if those cases were coded correctly on the ALERTS.
- 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 2021. We did not conduct validation tests of this system.

- Interviewed a judgmental sample of 24 revenue officers and 12 group managers across six areas to determine their understanding of reporting FTCP violations.[1] A judgmental sample method was selected to allow interviews with revenue officers and their respective managers. The selections were made using the September 2021 Field Collection organization chart as of September 2021. However, the total population of revenue officers and group managers during FY 2021 is uncertain.
- Requested assistance from TIGTA's Applied Research and Technology Data Analytics group to identify FY 2021 ICS histories with potential FTCP issues based on key search terms provided by the team, and from the results, we reviewed a judgmental sample of 197 ICS history narratives for potential FTCP violations.
- Reviewed the PCA FY 2021 Corrective Action Reports for CBE, ConServe, Performant, and Pioneer.
- Visited two PCAs as follows: ConServe sites in Fairport and Rochester, New York, and Coast Professional Inc. site in Albion, New York, to observe operations and interview operational management, line managers, and front-line employees.
- Reviewed the PCA employee disciplinary action policies for CBE, ConServe, Performant, and Pioneer.

Performance of This Review

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.; and PCA ConServe at their Fairport, New York, and Rochester, New York, locations; and Coast Professional Inc. in Albion, New York, and with information requested from all five PCAs 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); Phyllis Heald London, Director; Javier Fernandez, Audit Manager; Myriam Dolsaint, Lead Auditor; Janis Zuika, Senior Auditor; James Dovan, Auditor; and Jonathan Elder, Data Analytics Manager – Applied Research and Technology.

Validity and Reliability of Data From Computer-Based Systems

We obtained data for all cases posting to the ALERTS database during FY 2021 (provided to us by the TIGTA Data Service team for this review) and performed tests to assess the reliability of the data. The team has provided extracts from the ALERTS database in the past for this mandatory review. We evaluated the data by running queries on the population to ensure that the data met our criteria and no information was missing or incomplete. For example, we 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

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

explainable. We also obtained data analytic results and judgmental samples of FY 2021 ICS histories from TIGTA's Applied Research and Technology Data Analytics group, who performed an independent data reliability assessment. We also evaluated their results for accuracy by ensuring that the data met our criteria and that the narratives were valid by comparing them to both histories pulled directly from the IRS's ICS application and TIGTA's Data Center Warehouse ICS tables. We determined that the data were sufficiently reliable and could be used to meet the objective of this audit.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: 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. Additionally, for the four PCAs, we determined that the following internal controls were relevant to our audit objective: the guidance used to audit the collectors' telephone calls to ensure the identification of potential FDCPA violations, the procedures for reporting potential FDCPA violations, and the actions taken for potential violations. We evaluated these controls by interviewing management and reviewing the PCAs' FY 2021 Corrective Actions Reports.

Appendix II

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 – Potential; six cases (see Recommendation 1).

Methodology Used to Measure the Reported Benefit:

We identified six FTCP and non-FTCP issues closed on the ALERTS database in FY 2021 that were incorrectly coded.

- Four cases were potentially improperly coded under FTCP issue codes. They did not involve collection matters and therefore should not have been classified under an FTCP issue code. One of the four cases involved an examination matter by a revenue agent and three involved noncollection matters by customer service representatives.
- Two cases were potentially improperly coded as non-FTCP violations that should have been coded as FTCP violations. Both cases involved collection matters in which the employee used abusive behavior and/or profanity against the taxpayer.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; [redacted] (see Recommendation 2).

Methodology Used to Measure the Reported Benefit:

We reviewed a random sample of 197 ICS history narratives and found [redacted] that we believe could indicate potential FTCP violations. [redacted] Essentially all communication depends on how it is delivered as to whether it is an FTCP violation.

Appendix III

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 § 3466 requires the IRS to comply with certain provisions of the FDCPA, known as the FTCP.[1] 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.

[1] I.R.C. § 6304.

Appendix IV

Fair Tax Collection Practices Violation Issue Codes

Issue Code	Description
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 POA.
143	CONTACT AT TAXPAYER EMPLOYMENT; WHEN PROHIBITED – Valid only for collection employees. Contacting a taxpayer at their 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 I.R.C. § 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 I.R.C.
145	TAXPAYER ABUSE IN A TAX COLLECTION MATTER – Valid only for collection employees. Any allegation of taxpayer abuse should be reviewed along with I.R.C. § 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 I.R.C.
146	CONTINUOUS TELEPHONE/HARRASSMENT – Valid only for collection employees. Causing a taxpayer's telephone to ring continuously with harassing intent.
147	TELEPHONE 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 (January 2020).

Appendix V

Selection of Non-Fair Tax Collection Practices Violation Issue Codes

Issue Code	Description
013	POSITION/AUTHORITY MISUSE – NOT 1203 – Misusing one's public office or authority. These situations can involve on-duty conduct related to official matters. These situations can also involve the misuse of Government-issued credentials and employee identification badges to obtain some form of personal gain or benefit.
020	FIGHTING, ASSAULTS & THREATS – NOT 1203 – Employee altercations that occur during official duty hours.
058	UNPROFESSIONAL CONDUCT – On-duty behavior that is rude, discourteous, or unprofessional. This does not include violations of the Fair Tax Collection Practices.
090	RUDE/DISCOURTEOUS CONDUCT – This code has been deactivated but can still be used in a query. Issue code 058 is recommended for the keywords "rude" and "discourteous."
114	1203(b)(5): CONVICTION-ASSAULT/BATT – Assault or battery on a taxpayer, taxpayer representative, or other employee of the IRS if there is a criminal conviction or final court judgment in a civil case.
115	1203(b)(6): I.R.C./IRM/REGULATION VIOLATION-RETALIATION – Violations of the I.R.C. of 1986, Department of the Treasury regulations, or policies of the IRS (including the IRM) for the purpose of retaliating against or harassing a taxpayer, taxpayer representative, or other employee of the IRS.
119	1203(b)(10): THREAT OF AUDIT/PERSONAL – Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.
699	OTHER – Valid only for IRS Criminal Investigation employees – Used to identify matters that currently are not defined (*e.g.*, no driver's license or not meeting minimum qualification standards).
953	PERSONNEL/LABOR RELATIONS ISSUE – This is used for the TIGTA interface only and cannot stand alone on a case. Another relevant issue code will be required before a case can be closed.
954	TAXPAYER (PERSONAL) BUSINESS TAX ISSUES – This is used for the TIGTA interface only and cannot stand alone on a case. Another relevant issue code will be required before a case can be closed.
999	NOT OTHERWISE CODED – Used to identify any matter that has not been defined by the other issue codes available. SPECIAL NOTE: The use of this issue code requires a more detailed explanation in the Facts and Analysis Section of ALERTS.

Source: IRS ALERTS User Manual (January 2020).

Appendix VI

Fair Debt Collection Practices Act Provisions

The FDCPA is the main Federal law that governs debt collection practices. The FDCPA prohibits debt collection companies from using abusive, unfair, or deceptive practices to collect debts. Provisions of the FDCPA that debt collection companies must follow include:[1]

- **1692c: Communication in connection with debt collection**
  - **(a)** Communication with the consumer generally without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

    (1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;

    (2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer.
  - **(b)** Communication with third parties except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post-judgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.
  - **(c)** Ceasing communication – If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except –

    (1) to advise the consumer that the debt collector's further efforts are being terminated;

    (2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

[1] The provisions in this appendix only represent sections of 15 U.S.C. § 1692–1692p violated by the four PCAs in FY 2021.

(3) where applicable, to notify the consumer that the debt collector or creditor intends invoke a specified remedy.

- **(d)** "Consumer" defined: For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

- **1692e: False or misleading representations**
  - A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:
    - **(11)** The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

Appendix VII

Management's Response to the Draft Report

HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

Aug 29, 2022

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kevin Q. McIver
IRS Human Capital Officer
Kevin Q. McIver Digitally signed by Kevin Q. McIver Date: 2022.08.29 09:35:26 -04'00'

SUBJECT: Draft Audit Report – Fiscal Year (FY) 2022 Statutory Review of Potential Fair Tax Collection Practices (FTCP) Violations (Audit #202230005)

Thank you for the opportunity to review the FY2022 Statutory Review of Potential FTCP Violations (Audit #202230005) draft report. The IRS is fully committed to the fair treatment of taxpayers by the IRS and private collection agency employees while attempting to collect taxes. The IRS is further committed to ensuring alleged violations of FTCP are properly coded and documented within the Automated Labor and Employee Relations Tracking System (ALERTS). Employees are required to comply with FTCP provisions of the IRS Restructuring and Reform Act of 1998 in every taxpayer contact.

In the FY2021 FTCP Audit Report, 48 cases were identified that were not resolved within the IRS's stated goal of 180 days. In FY2022, 20 cases were identified as not resolved within 180 days. Improvements were made to meet the case processing goal of 180 days. Cases closed after the 180-day mark decreased by 4% in FY2022. The IRS issued an information memorandum March 2020 directing employees who encounter inordinate delays after taking follow-up actions to elevate those cases through the proper management chain. The review found 13 of the 20 untimely cases were opened and closed after the March 2020 procedural changes were put in effect, indicating although improvements were made in FY2021, timeliness remains an issue.

The report notes that based on employee interviews, some managers are not aware of the process for reporting potential FTCP violations and recommends issuing a memorandum to collection managers reinforcing the procedures to be used when taxpayer or representative complaints on IRS employee misconduct are received. The IRS understands and agrees with the importance of ensuring taxpayers receive fair and balanced treatment from IRS and Private Collection Agency employees when they attempt to collect taxes.

2

In your review, you noted that some employees indicated that their managers did not observe any of their interactions with taxpayers in FY2021 and recommends we remind group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement. The IRS agrees that providing ongoing employee feedback is an essential part of the group manager’s responsibility.

To address the feedback raised through the employee interviews, we will issue memorandums to collection managers reminding them of the procedures to be used when addressing taxpayer or representative complaints of IRS employee misconduct, and of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

The IRS concurs with the stated outcome measures and agrees with all three recommendations. Attached is a detailed response outlining the corrective actions that the Human Capital Office and the Small Business/Self Employed Division will take to address your recommendations. If you have any questions, please contact me at 202-317-3174, or Geralda Larkins, Acting Director, Labor/Employee Relations and Negotiations, at 954-849-1436.

Attachment

Attachment

RECOMMENDATION 1:
The IRS Human Capital Officer should review the FY 2021 miscoded cases to ensure that a proper analysis of the FTCP violation is conducted and the correct issue code is applied.

CORRECTIVE ACTION:
The IRS agrees with this recommendation and will review the potentially miscoded cases identified in the TIGTA Audit Report with the appropriate management officials to determine and apply the proper issue code(s).

IMPLEMENTATION DATE:
November 15, 2022

RESPONSIBLE OFFICIAL:
Director, Human Capital Office, Labor/Employee Relations and Negotiations Division

CORRECTIVE MONITORING PLAN:
The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2:
The Director, Field Collection, Small Business/Self Employed Division should issue a memorandum to collection managers reinforcing the procedures to be used when addressing taxpayer or representative complaints on IRS employee misconduct.

CORRECTIVE ACTION:
The IRS agrees with this recommendation and the Director, Field Collection, Small Business/Self Employed Division will issue a memorandum to collection managers reinforcing the procedures to be used when addressing taxpayer or representative complaints on IRS employee misconduct.

IMPLEMENTATION DATE:
November 15, 2022

RESPONSIBLE OFFICIAL:
Director, Field Collection, Small Business/Self Employed Division

CORRECTIVE ACTION MONITORING PLAN:
The IRS will monitor this corrective action as part of our internal management system of controls.

2

RECOMMENDATION 3:
The Director, Field Collection, Small Business/Self Employed Division should remind group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

CORRECTIVE ACTION:
The IRS agrees with this recommendation and the Director, Field Collection, Small Business/Self Employed Division will issue a memorandum reminding group managers of their annual mandatory observation review requirement and the alternative methods available to satisfy this requirement.

IMPLEMENTATION DATE:
November 15, 2022

RESPONSIBLE OFFICIAL:
Director, Field Collection, Small Business/Self Employed Division

CORRECTIVE ACTION MONITORING PLAN:
The IRS will monitor this corrective action as part of our internal management system of controls.

Appendix VIII

Abbreviations

ALERTS	Automated Labor and Employee Relations Tracking System
FDCPA	Fair Debt Collection Practices Act
FTCP	Fair Tax Collection Practices
FY	Fiscal Year
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
PCA	Private Collection Agency
POA	Power of Attorney
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration

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

(800) 366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

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