

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2023 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns

September 22, 2023

Report Number: 2023-30-063

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 2023 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns

Final Audit Report issued on September 22, 2023

Report Number 2023-30-063

Why TIGTA Did This Audit

This audit was initiated because the IRS Restructuring and Reform Act of 1998 requires TIGTA to annually review and certify the IRS's compliance with the requirements of Internal Revenue Code (I.R.C.) § 6103(e)(8). The Taxpayer Bill of Rights 2 added I.R.C. § 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household, the IRS shall disclose to the individual making the request as to whether the IRS has attempted to collect the balance due from the other individual, the general nature of the collection activities, and the amount collected.

I.R.C. §§ 6103(e)(6) and (e)(7) allow authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8).

Impact on Tax Administration

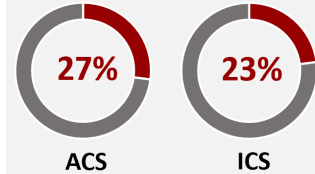
In Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*. If the IRS does not provide taxpayers with account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

What TIGTA Found

TIGTA reviewed 60 case files from the Small Business/Self-Employed Division to determine whether employees followed the joint return disclosure requirements on collection information requests. TIGTA determined that disclosure requirements were not followed in eight (27 percent) of the Automated Collection System history files, and seven (23 percent) of the Field Collection history files. In most cases, these taxpayers or their representatives did not receive information related to collection activities of the taxpayer's joint liabilities that they were entitled to by statute, and therefore were potentially burdened with additional delays in resolving their respective tax matter.

Six of the cases for which disclosure requirements were not followed had "mirrored accounts." The same collection information, when requested for mirrored accounts, should be disclosed to both taxpayers as would be disclosed for any other jointly filed return, except for unrelated personal information. TIGTA also interviewed 30 collection representatives and revenue officers, as well as their respective managers, to determine what collection activity information the employees would disclose from a jointly filed return, whether the taxpayers were currently married, separated, or divorced, and with either mirrored or non-mirrored accounts. The majority of employees and managers interviewed either responded incorrectly or were unsure about one or more questions related to what information could or could not be disclosed to a divorced or separated taxpayer requesting information on a joint return.

The IRS **did not follow the joint disclosure requirements for ACS and ICS case histories with a joint tax liability.**



We found a **27 percent** and a **23 percent error rate** in ACS and ICS case histories.

What TIGTA Recommended

TIGTA recommended that the IRS: (1) update the Internal Revenue Manual section for Specialty Collection, Offer in Compromise, to provide guidance on disclosure requirements for taxpayers who jointly filed returns, whether they are married, divorced, or separated, and whether they have mirrored accounts; and (2) incorporate I.R.C. §§ 6103(e)(7) and (e)(8) into refresher training for all employees and managers in the Small Business/Self-Employed Division Collection function who interact with taxpayers, including guidance about disclosure when there are mirrored accounts, as well as non-disclosure of prohibited taxpayer information. IRS management agreed with both recommendations and will implement corrective actions.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

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

September 22, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2023 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns (Audit #202330004)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) was complying with the provisions of Internal Revenue Code § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. This review is part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Increasing Domestic and International Tax Compliance and Enforcement*.

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

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

The Taxpayer Bill of Rights 2 added Internal Revenue Code (I.R.C.) § 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed (hereinafter referred to as balance due) and the individuals filing the return are no longer married or no longer reside in the same household (hereafter referred to as divorced or separated), upon request in writing by either of the individuals, the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request as to whether the IRS has attempted to collect the balance due from the other individual, the general nature of the collection activities, and the amount collected.¹ I.R.C. §§ 6103(e)(6) and (e)(7) allows authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). If the IRS does not provide taxpayers the account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

After passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers.² This is more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which require the IRS to provide written responses to written requests. Additionally, in Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*.

The IRS Restructuring and Reform Act of 1998 (RRA 98) requires the Treasury Inspector General for Tax Administration (TIGTA) to annually review and certify whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request.³ We cannot readily identify the population of cases for which joint filers made such requests because the IRS does not have and does not plan to implement a system to identify or track joint filer requests for collection activity. To identify these requests, the IRS would have to conduct a manual review of every taxpayer case in the collection process with a jointly filed tax return, looking for a notation in the case file or a copy of the taxpayer's letter.

During last year's review, we focused on two independent organizations within the IRS: the Office of Appeals (Appeals) and the Taxpayer Advocate Service (TAS).⁴ We reviewed 122 case histories from Appeals and 21 case histories from TAS. We determined that disclosure requirements were not followed in eight (7 percent) of 122 Appeals employees' history files

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

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

² Internal Revenue Manual 5.1.22.4(2) (Aug. 1, 2019).

³ 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.).

⁴ TIGTA, Report No. 2022-30-058, *Fiscal Year 2022 Statutory Review of Disclosure of Collection Activities With Respect to Joint Returns*, (Sept. 2022).

reviewed, and no errors were identified in the TAS case histories. In most of the eight cases, these taxpayers or their representatives did not receive information related to collection activities of the taxpayers' joint liabilities, which they were entitled to by statute, and were potentially burdened with additional delays in resolving their respective tax matter. We also interviewed a judgmental sample of 25 employees, which included nine Appeals officers and settlement officers, three Appeals managers, nine TAS case advocates and intake advocates, and four TAS managers, to determine what collection activity information the employees would disclose from a jointly filed return; whether the taxpayers were currently married, separated, or divorced; and whether their accounts were mirrored or non-mirrored.⁵ All 25 employees interviewed either responded incorrectly or did not know the answer to one or more questions about what information could or could not be disclosed to a taxpayer who requested information on a joint return and was divorced or separated.

This year's mandatory review focused on the Small Business/Self-Employed (SB/SE) Division's Field Collection function and the Automated Collection System (ACS) operation within the SB/SE Division Collection function. The SB/SE Division Field Collection function is responsible for direct collection and enforcement activity, which is conducted by revenue officers in contact with taxpayers and/or their representatives. Revenue officers within the Field Collection function use the Integrated Collection System (ICS) to report taxpayer case time and activity. The SB/SE Division's ACS operation is responsible for resolving balances due or delinquent returns through a telephone-based operation. Customer service representatives within the ACS operation document incoming calls and actions taken on taxpayer accounts in the Accounts Management System (AMS).

Results of Review

Employees Are Not Always Disclosing Collection Activity on Jointly Filed Returns As Required

Over the last seven years, we have interviewed IRS employees about their responses to requests for information regarding collection activity for jointly filed returns from taxpayers who are divorced or separated. We have also queried electronic history files attempting to identify the full population of these cases. Despite our efforts, we have been unable to identify the population of joint filer requests. However, as of five years ago, our queries identified some cases for which taxpayers requested collection information related to their jointly filed returns. In reviewing these results, we identified potential violations to the joint return disclosure requirements and made recommendations to improve IRS employee awareness of the requirements to provide divorced or separated taxpayers with collection information on

We continue to identify issues with employee understanding of the requirements to provide divorced or separated taxpayers with collection information on their jointly filed returns.

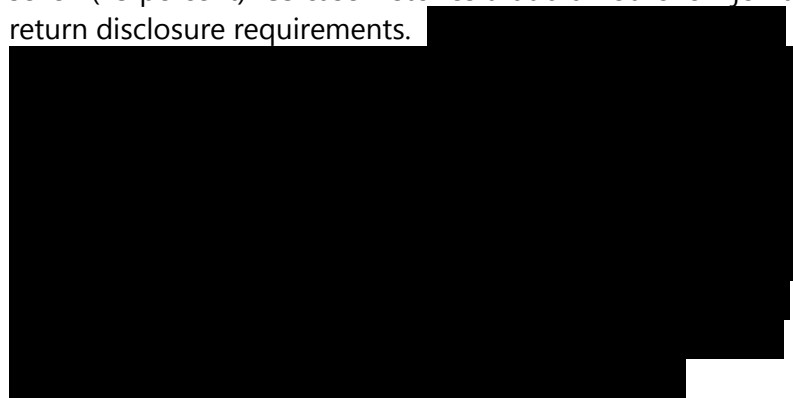
⁵ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

their jointly filed returns. However, we continue to identify issues with employee understanding of these disclosure requirements.

Case history files showed that employees are not always aware of the disclosure requirements for joint filer taxpayer contacts

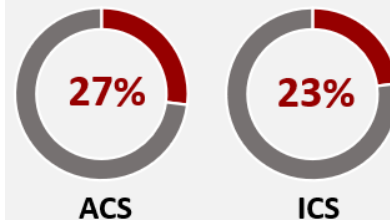
As part of this year's review, we queried IRS computer system history files to identify the population of joint filer disclosure contacts made from October 1, 2021, through March 31, 2022. Since there are no indicators within the case history files or tracking system to identify cases with joint filer disclosure, we performed queries on the case history files using specific combinations of key words associated with separated or divorced joint filers to identify cases with joint filer disclosure contacts. Due to the lack of an indicator and tracking system, we were unable to confirm whether we identified the population of all disclosure contacts based on key word searches. However, we successfully identified 316 cases that were potentially related to these types of contacts in the history files for the SB/SE Division Collection function during our audit time frame.⁶ We identified cases in which employees did not provide collection information that they should have and cases in which employees improperly disclosed prohibited information.

We initially identified 199 potential ACS case histories and 117 potential ICS case histories through our key word searches.⁷ We reviewed the first 30 cases from each sample that met our criteria of the taxpayers being divorced or separated joint filers requesting information regarding a joint tax liability, resulting in 38 ACS case histories and 67 ICS case histories being reviewed.⁸ Of the 30 cases from each sample, our review identified eight (27 percent) ACS case histories and seven (23 percent) ICS case histories that did not follow joint return disclosure requirements.



Although the IRS updated the Internal Revenue Manual (IRM) and provided additional training to their employees, this has been a recurring issue for the last seven years. The

The IRS did not follow the joint disclosure requirements for ACS and ICS case histories with a joint tax liability.



We found a 27 percent and a 23 percent error rate in ACS and ICS case histories.

⁶ See Appendix I for detailed methodology of how we obtained this data.

⁷ The ICS is a system used by Field Collection employees (revenue officers) to report taxpayer case time and activity. The AMS provides a common user interface that allows users to update taxpayer accounts, view history and comments from other systems, and access a variety of case processing tools. AMS histories are input by employees in the SB/SE Division's ACS function and the Wage and Investment Division's Accounts Management and Field Assistance functions; however, we only reviewed histories input by ACS employees.

⁸ We determined that these files belonged to 105 unique taxpayers.

IRS should continue to address this ongoing issue in its respective business unit IRM sections that provide guidance to employees who may respond to taxpayer inquiries about a joint return matter.

[REDACTED]

Mirroring a joint account sets up two tax accounts, one for each taxpayer. Establishing two separate accounts provides a way for the IRS to administer and track collection activity unique to each of the taxpayers. Each taxpayer remains jointly liable for the entire debt; in other words, mirroring an account does not divide the liability in half. Since joint filer taxpayers remain jointly liable, the same collection information should be provided to both taxpayers when requested on mirrored accounts, as with any other jointly filed return, except when the request is for unrelated personal information.⁹

We reviewed ACS and ICS case histories relating to joint filer disclosure contacts made from October 1, 2021, through March 31, 2022, as well as the related IRM sections. As shown in past

IRS employees are not always aware of required procedures used to resolve collection activities on mirrored accounts.



years' reviews, mirrored accounts continue to be an area of difficulty for IRS employees and managers, and potentially could result in the violation of disclosure law, if not properly understood by IRS personnel. Although the general IRM section for ACS (IRM 5.19.5) provides a brief explanation of mirrored accounts, it first directs the employees to "Follow the

*procedures in IRM 11.3.2.4.1.1, Disclosure of Collection Activities with Respect to Joint Returns, when determining what information can be disclosed to the other spouse."*¹⁰ The only mention of mirrored accounts in IRM 11.3.2 states, "The disclosure rules are the same whether it's a joint or mirrored account. See IRM 5.19.1.6.7, *Mirroring Accounts*," and does not provide a definition or an explanation of the effects of mirrored accounts with a balance due.¹¹ Without having a definition or clear understanding of the effects of mirrored accounts, IRS employees may not refer to IRM 5.19.1.6.7.¹² Because mirrored accounts seem to be a complicated issue, the employees may not be able to research the IRM in a timely manner. Therefore, the IRS should update IRM 11.3.2 to provide additional guidance about mirrored accounts, such as adding a definition and an explanation of the effects of mirrored accounts with a balance due.

During our interviews with SB/SE Division Collection personnel, employees of the Specialty Collection, Offer in Compromise (SCOIC) function, stated they currently did not have an IRM specifically for disclosure of collection activities. Instead, the employees use the IRM for Customer Service Representatives within ACS.¹³ Because the issues handled by ACS personnel and SCOIC personnel are different, the IRS should establish an IRM section specifically for

⁹ IRM 5.19.5.4.13(6) guidance prohibits disclosures such as the other spouse's location, name change, telephone number, employment, income, assets, the income level at which a currently-not-collectible account would be reactivated, or the bankruptcy chapter filed by the other spouse.

¹⁰ IRM 5.19.5.4.13 (Jan. 27, 2021).

¹¹ IRM 11.3.2.4.1.1 (Sept. 17, 2020). IRM 5.19.1.6.7 (Sept. 14, 2021).

¹² IRM 5.19.1.6.7 (Sept. 14, 2021).

¹³ IRM 5.19.5.4.13 (Jan. 27, 2021).

employees of SCOIC to provide information relating to the proper disclosure for joint filers. Despite the Disclosure function's IRM section (IRM 11.3.2) listing the audience as all operating divisions and functions, there should be consistency among the IRMs, with each function's IRM section incorporating disclosure requirements, especially if that function has taxpayer contact.¹⁴

In our Fiscal Year 2019 report, we recommended that the IRS produce a detailed, but simple-to-understand, list of information that IRS employees must and must not provide to joint filing taxpayers seeking collection information to be attached to all pertinent IRM sections as an exhibit.¹⁵ The IRS partially agreed with this recommendation, preparing a list of the most common scenarios its employees encounter and providing guidance from the Office of Chief Counsel and the Disclosure Office. In December 2019, the IRS sent a memo with this information to Collection function employees impacted.

In our Fiscal Year 2020 report, the last time the SB/SE Division Collection was the focus of our review, we recommended that this communication be amended to include the information on mirrored accounts.¹⁶ The IRS agreed with this recommendation and issued a memorandum in December 2020 to remind employees of the disclosure requirements where taxpayers filed joint returns and had their accounts mirrored. In our Fiscal Year 2021 report, which focused on the IRS's Wage and Investment Division, we recommended that the IRS update the Customer Account Services and Field Assistance IRM sections to include what collection activity must be disclosed to taxpayers who jointly file returns; whether they are married, divorced, or separated; and whether or not they have mirrored accounts.¹⁷ The IRS partially agreed with this recommendation, and revised the IRM sections to more clearly direct employees to appropriate guidance on what collection activities may and may not be disclosed to taxpayers who jointly filed returns, include references to related scenarios, and provide refresher training to its employees, including adding examples relating to mirrored accounts.

In our Fiscal Year 2022 report, we recommended that the IRS update disclosure guidance for both Appeals and TAS, as well as require a refresher training course for their employees. The IRS agreed to all four recommendations. Appeals plans to implement the corrective action by October 15, 2023, and TAS plans to implement corrective actions by April 15, 2023, and September 15, 2023. Since the corrective actions by both offices have not been implemented during this review, we are unable to confirm their implementation and will follow up during next year's mandatory review.

Interviews showed that some employees and managers continue to be unaware of the disclosure requirements for joint filer taxpayer contacts

We interviewed a judgmental sample of 30 employees and managers, including 10 collection representatives, 10 revenue officers, and three process examiners from SCOIC, as well as three ACS managers, three Field Collection managers, and one SCOIC manager. TIGTA conducted the

¹⁴ IRM 11.3.2 (Feb. 7, 2022).

¹⁵ TIGTA, Report No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns*, pp. 7 and 8 (Sept. 2019).

¹⁶ TIGTA, Report No. 2020-30-048, *Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns*, p. 6 (Aug. 2020).

¹⁷ TIGTA, Report No. 2021-30-050, *Fiscal Year 2021 Statutory Review of Disclosure of Collection Activities on Joint Returns*, p. 3 (Aug. 2021).

interviews to determine what collection activity information the employees would disclose from a jointly filed return in situations where the taxpayers were currently married, separated, or divorced, and when their accounts were mirrored and non-mirrored.¹⁸

During the interviews, we asked employees three questions about whether they would provide collection activity information to a married taxpayer on a jointly filed return. In addition, we asked four questions about whether the employee would provide collection activity information on a jointly filed return to a taxpayer who is now divorced or separated when the account was mirrored and non-mirrored. We found that the majority of the 23 employees and all seven managers would accurately provide collection activity details on a jointly filed return to a married taxpayer when requested. However, when asked about inquiries from divorced or separated taxpayers (with and without mirrored accounts), 22 (96 percent) of the 23 employees interviewed responded incorrectly or were unsure how to respond, and six (86 percent) of the seven managers interviewed responded incorrectly or were unsure how to respond.¹⁹



Employees and managers did not consistently know what collection information they are allowed to disclose to joint filer taxpayers

When asked questions about a taxpayer who was divorced or separated without a mirrored account, 16 (70 percent) of the 23 employees interviewed, and four (57 percent) of the seven managers interviewed, responded incorrectly that they would not disclose information or were unsure how to respond. Specifically:

- Eight of the 23 employees and three of the seven managers responded they would not provide the inquiring spouse information about whether the IRS has attempted to collect the balance due from the other spouse on their joint account, while two of the 23 employees were unsure how to respond.
- Nine of the 23 employees and two of the seven managers responded they would not provide the inquiring spouse information about the collection activity from the other

¹⁸ During the interviews, IRS employees may not have had access to the IRM for research or the ability to ask managers or peers questions. Therefore, interview responses may only be an indicator, and not fully representative, of how they may perform in a real-life work scenario with access to the IRM and other available resources to assist them.

¹⁹ The overall number of employees (23 employees, seven managers) reflects the unique counts of employees who provided one or more incorrect responses to our questions. Therefore, the subsequent breakdown by mirrored, non-mirrored, and disclosure violations, will not add up to 23 and seven because some employees/managers answered more than one question incorrectly.

spouse on their joint account, while one of the seven managers were unsure how to respond.

- Five of the 23 employees and one of the seven managers responded they would not tell the inquiring spouse the current collection status (whether the module was in currently-not-collectible (CNC) or suspended status), while two of the 23 employees and one of the seven managers were unsure how to respond.
- Nine of the 23 employees and two of the seven managers responded they would not tell the inquiring spouse why the module was deemed CNC or suspended, while two of the 23 employees and two of the seven managers were unsure how to respond.

When asked about a taxpayer who was divorced or separated with a mirrored account, 19 (83 percent) of the 23 employees interviewed, and six (86 percent) of the seven managers interviewed, responded incorrectly that they would not disclose information or were unsure how to respond. Specifically:

- Seven of the 23 employees and five of the seven managers responded they would not provide the inquiring spouse with information about whether the IRS has attempted to collect the balance due from the other spouse on their joint account, while six of the 23 employees were unsure how to respond.
- Twelve of the 23 employees and four of the seven managers responded they would not provide the inquiring spouse with information about the collection activity from the other spouse on their joint account, while four of the 23 employees and one of the seven managers were unsure how to respond.
- Nine of the 23 employees and three of the seven managers responded they would not tell the inquiring spouse the current collection status of the account, while six of the 23 employees and two of the seven managers were unsure how to respond.
- Thirteen of the 23 employees and five of the seven managers responded that they would not tell the inquiring spouse why the module was deemed CNC or suspended, while three of the 23 employees and one of the seven managers were unsure how to respond.

Employees and managers were not always aware of what information they are not allowed to disclose to joint filer taxpayers

There is also information that employees should not disclose to spouses on joint accounts. Prohibited disclosures include items such as: providing information about the other spouse's location, name change, or telephone number; information about the other spouse's employment, income, or assets; the income level of the other spouse at which a CNC module would be reactivated; or the bankruptcy chapter filed by the other spouse.²⁰

When asked questions about a taxpayer who was divorced or separated, four (17 percent) of the 23 employees interviewed and one (14 percent) of the seven managers interviewed responded incorrectly that they would disclose some of these prohibited items about the other spouse or were unsure how to respond. Specifically:

²⁰ IRM 21.6.8.3(3) (May 20, 2022).

**Fiscal Year 2023 Mandatory Review of Disclosure
of Collection Activity With Respect to Joint Returns**

- Three of the 23 employees responded that, for taxpayers *without a mirrored account*, they were not sure if they could disclose the bankruptcy chapter filed by the other spouse, for spouses who are now divorced or separated.
- Three of the 23 employees responded that, for taxpayers *with a mirrored account*, they were not sure if they could disclose the bankruptcy chapter filed by the other spouse, for spouses who are now divorced or separated.
- One of the 23 employees responded that, for taxpayers *without a mirrored account*, they would disclose the following information about the other spouse for spouses who are now divorced or separated: telephone number, employment, income, and/or assets.
- One of the 23 employees and one of the seven managers responded that, for taxpayers *without a mirrored account*, they would disclose the income level of the other spouse at which a CNC module would be reactivated.
- Two of the 23 employees responded that, for taxpayers *with a mirrored account*, they were not sure if they could disclose the income level of the other spouse at which a CNC module would be reactivated for spouses who are now divorced or separated.

When employees are unsure of the appropriate disclosure, they should not risk potential discipline under I.R.C. § 6103 for an inappropriate disclosure made in error. When we asked employees during our interviews where they request assistance or guidance regarding disclosure, the majority stated they would turn to the IRM or their manager. Therefore, if a manager is providing inaccurate information to their employees regarding the disclosure of collection activity of joint filers, there will be a consistent issue of improper disclosure. Employees, as well as managers, need additional guidance on disclosure with mirrored accounts (such as, a clear definition of what mirrored accounts are and how disclosure relates to mirrored accounts) and continued training on joint return disclosure requirements so they can provide appropriate responses when asked about collection activity on jointly filed returns of divorced or separated joint filers, including situations where the account is mirrored.

Based on our collective results from case history file reviews and interviews, employees and managers are providing inconsistent responses to taxpayer requests for collection information on their jointly filed returns when the taxpayers are divorced or separated. RRA 98 § 1204(b) requires all IRS employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. This provision of the law was enacted to provide assurance that employee performance is focused on providing quality service to taxpayers. One example provided by IRM 6.430.2 of performance that meets the fair and equitable treatment standard is to conduct "oral and written communications with taxpayers that are professional, courteous, and *accurately state the facts.*"²¹ To assist its employees in meeting this standard, the IRS should consistently provide periodic training for all IRS personnel that addresses collection activity inquiries.

In addition to requiring the IRS to provide collection information to joint filers, RRA 98 also requires all IRS employees, including IRS Headquarters employees who set policies for IRS employees to follow, to annually sign a statement that is a part of their annual performance plan

²¹ IRM 6.430.2, Exhibit 6.430.2-1 (Oct. 28, 2011).

in which they agree to treat taxpayers fairly and equitably.²² The standard requires employees to administer the tax laws fairly and equitably; protect all taxpayers' rights; and treat each taxpayer ethically with honesty, integrity, and respect. Employees receive annual training on taxpayer rights as part of the IRS's obligation under RRA 98 § 1204(b). TIGTA has reported annually on significant problems with taxpayers who file jointly not receiving the collection information to which they are entitled, and the IRS has not always agreed to take steps to help clarify its employees' misunderstandings about what the law requires. The recommendations below are intended to help clarify misunderstanding of the law by IRS employees.

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

Recommendation 1: Update the IRM for Specialty Collection, Offer in Compromise, to provide guidance on disclosure requirements for taxpayers who jointly filed returns; whether they are married, divorced, or separated; and whether or not they have mirrored accounts.

Management's Response: IRS management agreed with this recommendation, stating that they will issue an interim guidance memorandum updating Offer in Compromise IRM 5.8.1, *Overview*, to provide guidance on disclosure requirements for taxpayers who jointly filed returns; whether they are married, divorced, or separated and whether or not they have mirrored accounts.

Recommendation 2: Incorporate into refresher training, for all employees and managers in the SB/SE Division Collection function who interact with taxpayers, the requirements of I.R.C. §§ 6103(e)(7) and (e)(8) to disclose collection activity on jointly filed returns when requested by individuals who are no longer married or separated, including guidance about disclosure when there are mirrored accounts, as well as the non-disclosure of prohibited taxpayer information. The Office of Chief Counsel should be included in the development of this training.

Management's Response: IRS management agreed with this recommendation, stating that they will incorporate I.R.C. §§ 6103(e)(7) and (e)(8) disclosures into refresher training for employees and managers in the SB/SE Division Collection functions who interact with taxpayers. The training will be delivered as part of the FY 2024 training plan.

²² RRA 98 § 1204(b) Pub. L. No. 105-206, 112 Stat. 685 (and codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

Appendix I

Detailed Objective, Scope, and Methodology

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

- Determined whether any systems or processes had been implemented or modified since our last review, dated September 2022, to track taxpayer complaints related to the requirements of I.R.C. § 6103(e)(8) or joint filer requests, and the IRS's responses for collection information related to the requirements of I.R.C. § 6103(e)(8).
- Interviewed a judgmental sample of SB/SE Division Collection employees and managers to determine how they responded to questions about collection activity on accounts of taxpayers who jointly filed a return but are no longer married or no longer reside in the same household of the other taxpayer on the return.¹
- Identified potential joint filer disclosure related SB/SE Division Collection taxpayer contacts from October 1, 2021, through March 31, 2022, and reviewed all potential results to determine if employees' responses to these contacts were appropriate based on the I.R.C. §§ 6103(e)(7) and (8).
- Reviewed the IRS's compliance with the joint return disclosure requirements by requesting assistance from TIGTA's Applied Research and Technology Data Analytics group to identify a potential population of separated or divorced taxpayers with disclosure-related contacts from October 1, 2021, through March 31, 2022. The group identified 199 ACS history files in AMS and 117 Field Collection history files in ICS that potentially related to taxpayer requests for collection activity information on jointly filed returns for which the taxpayers were now either divorced or separated.

Performance of This Review

This review was performed with information obtained from the offices of the Commissioner, IRS National Headquarters, and the SB/SE Division during the period of October 2022 through July 2023. 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding 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); Robert Jenness, Director; Tina Fitzsimmons, Audit Manager; Kelly Loeffler, Lead Auditor; Charles Gambino, Auditor; Thomas Lipski, Auditor; and Kevin B. Nielsen, Information Technology Specialist (Data Analytics).

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

Validity and Reliability of Data From Computer-Based Systems

The Applied Research and Technology Data Analyst performed data analytics using an extract from the following two data systems, respectively: the TIGTA Data Center Warehouse's AMS and ICS. Each dataset was used to identify a potential population of separated or divorced taxpayers with disclosure-related contacts during the period of October 1, 2021, through March 31, 2022. We evaluated the results of the data analytics by performing electronic data testing for missing data, outliers, duplicates, or obvious errors. We verified the completeness of the data by reviewing the date fields of the narratives, which all fell within the requested time frame. There were 199 AMS cases and 117 ICS cases; we reviewed both populations of cases and verified the accuracy of all case data as we performed our case review. We determined that the data were sufficiently reliable for the purpose 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: documented procedures pertaining to requests under I.R.C. § 6103(e)(8). We evaluated these controls by reviewing SB/SE Division ACS and SB/SE Field Collection history files and conducting interviews with SB/SE Division Collection personnel who receive these requests.

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:

- Taxpayer Burden – Potential; [REDACTED]
[REDACTED] (see Recommendations 1 and 2).

Methodology Used to Measure the Reported Benefit:

TIGTA's Applied Research and Technology Data Analytics group identified a potential population of separated or divorced taxpayers with disclosure-related contacts during October 1, 2021, through March 31, 2022. The group identified 199 SB/SE Division ACS history files and 117 ICS history files, that potentially related to taxpayer requests for collection activity information on jointly filed returns, in which the taxpayers were either divorced or separated. We reviewed 38 ACS history files and 67 ICS history files and determined that these files belonged to 105 unique taxpayers. [REDACTED]

[REDACTED] These taxpayers or their representatives were potentially burdened with additional delays in resolving their respective joint tax return matter.

Type and Value of Outcome Measure:

- Taxpayer Privacy and Security – Potential; [REDACTED] (see Recommendation 2).

Methodology Used to Measure the Reported Benefit:

TIGTA's Applied Research and Technology Data Analytics group identified a potential population of separated or divorced taxpayers with disclosure-related contacts during October 1, 2021, through March 31, 2022. The group identified 199 SB/SE Division ACS history files and 117 ICS history files, that potentially related to taxpayer requests for collection activity information on jointly filed returns, in which the taxpayers were either divorced or separated. We reviewed 38 ACS history files and 67 ICS history files and determined that these files belonged to 105 unique taxpayers. [REDACTED]

[REDACTED] These taxpayers potentially had their right to privacy violated with the disclosure of prohibited information.

Management's Response to the Draft Report



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

Aug 31, 2023

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT
Amalia C. Colbert
FROM: Lia Colbert Colbert
Commissioner, Small Business/Self-Employed Division
SUBJECT: Draft Audit Report – Fiscal Year 2023 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit #202330004)

Digitally signed by Amalia
C. Colbert
Date: 2023.08.31
14:29:02 -04'00'

Thank you for the opportunity to review the subject draft audit report. TIGTA is required to annually review and certify the IRS's compliance with Internal Revenue Code (IRC) § 6103(e)(8), which requires disclosure of collection information to joint filers on joint tax liabilities when requested by taxpayers who are no longer married, separated, or no longer reside in the same household.

Protection of taxpayer data is a top priority at the IRS, and we balance our statutory obligation to protect the confidentiality of taxpayer data while also making appropriate disclosures of information when responding to requests made under IRC § 6103(e)(8). When Collection was the focus of this review in Fiscal Year 2019, we updated Internal Revenue Manual (IRM) 5.1.22.4.1 with nine unique scenarios to further educate our employees on IRC § 6103(e)(8) requirements. Our employees in the Automated Collection System (ACS) function, who were subject to this year's review, also have IRM 5.19.5.4.13 procedures, which specifically address IRC § 6103(e)(8) requirements and include example scenarios. We are pleased that the implementation of these prior recommendations has resulted in greater adherence to disclosure requirements, as evidenced by the results of this report when compared to the previous findings.

Per TIGTA's recommendation, we will update the IRM section for Specialty Collection, Offer in Compromise (OIC) to provide guidance on IRC § 6103(e)(8) requirements. We will also provide refresher training to our Collection employees who have taxpayer contact to remind them of the information we are authorized to disclose.

TIGTA conducted phone interviews with a sample of 30 ACS, Field Collection, and OIC employees and managers on the disclosure of joint return procedures. This is an

**Fiscal Year 2023 Mandatory Review of Disclosure
of Collection Activity With Respect to Joint Returns**

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infrequent disclosure condition so employees may not immediately know the requirements. We appreciate the footnote in TIGTA's report stating that because the interviewees may not have had access to the IRM for research or the ability to ask managers or peers questions, the interview responses may only be an indicator, and not fully representative, of how they might perform in a real-life work scenario with access to the IRM and other available resources to assist them.

We appreciate TIGTA's review, your insights, and recommendations. We will continue to strive to make the appropriate disclosures based on the facts and circumstances of each case.

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

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of Collection Activity With Respect to Joint Returns**

Attachment

Recommendations

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

RECOMMENDATION 1:

Update the IRM for Specialty Collection, Offer in Compromise, to provide guidance on disclosure requirements for taxpayers who jointly filed returns; whether they are married, divorced, or separated; and whether or not they have mirrored accounts.

CORRECTIVE ACTION:

We agree with this recommendation. The IRS will issue an interim guidance memorandum updating Offer in Compromise IRM 5.8.1, *Overview*, to provide guidance on disclosure requirements for taxpayers who jointly filed returns; whether they are married, divorced, or separated and whether or not they have mirrored accounts.

IMPLEMENTATION DATE:

March 15, 2024

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 2:

Incorporate into refresher training, for all employees and managers in the SB/SE Division Collection function who interact with taxpayers, the requirements of I.R.C. §§ 6103(e)(7) and (e)(8) to disclose collection activity on jointly filed returns when requested by individuals who are no longer married or separated, including guidance about disclosure when there are mirrored accounts, as well as the non-disclosure of prohibited taxpayer information. The Office of Chief Counsel should be included in the development of this training.

CORRECTIVE ACTION:

We agree with this recommendation. The IRS will incorporate into refresher training IRC §§ 6103(e)(7) and (e)(8) disclosures for employees and managers in the SB/SE Collection functions who interact with taxpayers. The training will be delivered as part of the FY24 training plan. Training is delivered at various times and the planned implementation date reflects that staggered process.

IMPLEMENTATION DATE:

October 15, 2024

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of Collection Activity With Respect to Joint Returns**

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RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

Abbreviations

ACS	Automated Collection System
AMS	Accounts Management System
CNC	Currently-Not-Collectible
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998
SB/SE	Small Business/Self-Employed
SCOIC	Specialty Collection, Offer in Compromise
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

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