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

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MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

FROM: Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT: Audit Report – The Internal Revenue Service (IRS) Needs to Improve Its Compliance With Procedures When Processing Requests for Information Under the Freedom of Information Act—March, 2000 Reference Number: 2000-10-058

We apologize for the delay in transmitting our final response on this report. The time lag can be explained in part by our Modernization efforts that realigned the Disclosure operation into our Communications and Liaison Division and my desire to have the Chief Communications and Liaison involved with the review and corrective actions. However, I understand that your audit managers did see this response in final draft and agreed with our proposed actions.

Your audit teams have done a thorough job with a difficult subject area. We also appreciate your cooperation with the Freedom of Information Office.

One of the most important goals for our entire modernization effort is to improve our ability to provide first class customer service. Our plans for the new Disclosure organization will allow us to implement many of the recommendations in this report.

We want to stress that the Openness in Government philosophy advocated by the Attorney General in her 1993 memorandum, and reemphasized in 1999, has long been the IRS standard for release of information. Internal Revenue Manual (IRM) 1230, section 293, states that, unless a release is prohibited by law or regulations and impedes or nullifies an IRS action, or would constitute an unwarranted invasion of personal privacy, we will grant the release. We appreciate your identification of areas where we can improve our adherence to this precept and thus improve service.

I will always strongly insist that we honor the right of the American public to have the fullest possible access to information in our hands. This might be through the Freedom of Information Act (FOIA), the Privacy Act (PA), what is legally releasable under section 6103 of the Internal Revenue Code, or just what is good customer service. This report itself is fully releasable under the Freedom of Information Act.

IDENTITY OF RECOMMENDATION #1
Improve case management practices and oversight to ensure compliance with the provisions of the FOIA, the PA, and IRS' own guidelines and policy when reviewing FOIA and PA requests that are denied. The primary focus of these practices should be to reduce the number of requests where information is improperly withheld.

ASSESSMENT OF CAUSE
Out of more than 31,000 FOIA and PA requests received by the IRS in FY 1998, approximately 11.9 per cent (3,700) were denied, either in whole or in part. The staff of the Treasury Inspector General for Tax Administration (TIGTA) reviewed a sample of these 3,700 cases. They identified that, in approximately 12 per cent of the FOIA denials and 8 per cent of the PA denials (by rough extrapolation, in less than 1.5 per cent of the total FOIA requests received), information was inappropriately withheld.

Further, of the 41 total errors found on FOIA cases, approximately a third (13) were caused by a technical law change codified on July 22, 1998, in the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98). Errors in this area were made in the next few months (eight of the thirteen in the first 10 weeks) prior to training of the staff. The other errors were caused by a variety of mistakes, from inadvertent errors to misinterpretations of law.

CORRECTIVE ACTIONS
IRS will review the methods and timeliness of providing training on technical issues, including changes in the tax laws. Additional guidance and procedural instructions on other identified errors will be incorporated into the IRM and covered during Continuing Professional Education (CPE) sessions.

IMPLEMENTATION DATES:
Proposed: October 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will conduct follow-up via a review of the Disclosure Training Plan and operational reviews of the Director, GLD in October 2000.

IDENTITY OF RECOMMENDATION #2
Establish controls to minimize extended periods of inactivity while processing requests for information.

ASSESSMENT OF CAUSE
Each office has its own system of monitoring case processing and conducting follow-up reviews. These systems vary in effectiveness and in degree of managerial review.

CORRECTIVE ACTIONS
The IRS will develop a nationally used automated case processing system. This system will incorporate an automated suspense feature, allowing access by employees and managers to reports on automatically tracked due dates for specific case-related actions. All employees and managers will be trained on uniform use of the monitoring features and on the importance of timely follow-up and documentation of actions taken.

IMPLEMENTATION DATES:
Proposed: October 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
Disclosure will incorporate comments on the use of the system, the timeliness of follow-up actions, and the quality of the documentation into the templates used for field reviews. Reports on these actions will be given to the Chief Communications and Liaison by November 2000.

IDENTITY OF RECOMMENDATION #3
Modify procedures to allow the transfer of PA cases to the office that has jurisdiction over the requested records.

ASSESSMENT OF CAUSE
Department of the Treasury regulations, 31, CFR Part 1, Subpart C (Privacy Act) set out specific requirements. A PA request "...shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records for which the individual is seeking ... access." Further, the regulations state that "If a requests omits ... any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed."

Disclosure has considered requests sent to the wrong office as being those that "omit essential information" and did not act on them other than directing the requester to the correct office.

CORRECTIVE ACTIONS
The IRS will implement necessary changes and issue instructions to the field to allow transfers of PA cases.

IMPLEMENTATION DATES:
Proposed: October 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will receive a written report ensuring that all offices are in compliance with the change by November 2000.

IDENTITY OF RECOMMENDATION #4
Improve controls to ensure appropriate research is performed to determine whether the requested records can be provided by the office receiving the request or transferred to the office maintaining the records.

ASSESSMENT OF CAUSE
Different offices conduct differing levels of research, depending on office staffing and expertise levels, prior to transferring cases and/or supplying requested information.

CORRECTIVE ACTIONS
Governmental Liaison and Disclosure will develop and train employees on standard procedures for case research to ensure that, to the maximum extent possible, cases are worked at the initial receiving office. If transfer of all or part of a case is necessary, sufficient case history documentation will be done to allow the gaining office to determine what actions have already been taken.

IMPLEMENTATION DATES:
Proposed: December 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will receive a report on the changed procedures and instructions by January 2001. Field reviews will incorporate comments on adherence to this procedure.

IDENTITY OF RECOMMENDATION #5
Ensure the planned enhancements to the DIMS include providing system users with instant access to nationwide disclosure information. This should enable the IRS to identify similar requests from the same taxpayer and to coordinate the responses.

ASSESSMENT OF CAUSE
Requesters send similar responses to different offices around the nation. Various factors, including availability of staff, expertise levels, and prior discussions with the requester, have resulted in similar requests receiving different responses.

CORRECTIVE ACTIONS
IRS will continue to implement changes to the DIMS system to effect this recommendation. If it is possible to define and identify what constitutes a "similar" request, we will incorporate an automated identifier into a future DIMS update.

IMPLEMENTATION DATES:
October 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will receive a report on any possible changes by December 2000.

IDENTITY OF RECOMMENDATION #6
Consider expanding procedures to have disclosure employees provide information from similar files or sources when the information is not available in the exact format specified by the requester. In addition, the procedures should provide for communicating with the requesters when a specifically requested record does not exist, or is not available, to determine whether the information would meet their needs.

ASSESSMENT OF CAUSE
The FOIA regulations require that the request identify the desired records in sufficient specificity to allow a knowledgeable employee to find the information with a reasonable amount of effort. When a request is extremely specific, and the exact information is not available, TIGTA recommends that IRS provide other similar information that is not what was specifically requested on the chance that it might be of benefit.

CORRECTIVE ACTIONS
The IRS will develop procedures to emphasize contact with the requester when specifically requested information is not available.

IMPLEMENTATION DATES:
Proposed: October 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will receive a report on the changed procedures by November 2000. Field reviews will incorporate comments on adherence to this procedure.

IDENTITY OF RECOMMENDATION #7
Obtain controlled access to the IRS' tax account information in the National Office of Governmental Liaison and Disclosure to research for the availability of the requested records.

ASSESSMENT OF CAUSE
The Office of Disclosure has traditionally minimized the account accessibility of employees in the National Office to avoid even the perception of inappropriate research into taxpayer records.

CORRECTIVE ACTIONS
The IRS will include the implementation of this recommendation into the responsibilities of the Area II GLD Manager who will be accepting the transfer of Headquarters Office casework to his field operations. This manager will conduct a study of the needed staffing, space, and training necessary to implement the recommendation.

IMPLEMENTATION DATES:
Proposed: December 1, 2000

RESPONSIBLE OFFICIAL
Area II Manager, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Director, GLD will receive monthly updates on the progress toward meeting this recommendation, beginning in September 2000.

IDENTITY OF RECOMMENDATION #8
Modify the Disclosure organization structure to enable the National Office to have more national direction and oversight over disclosure offices.

ASSESSMENT OF CAUSE
The National Office has provided policy advice but has not had a significant oversight role relative to the regional or district offices.

CORRECTIVE ACTIONS
This recommendation was made by the Phase II Team and approved by the Executive Committee.

IMPLEMENTATION DATES:
August 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will monitor the stand-up plan to ensure the recommendation is properly implemented.

IDENTITY OF RECOMMENDATION #9
Develop and implement minimum standards for documenting case actions.

ASSESSMENT OF CAUSE
Each office has its own locally developed standards and procedures for preparing case history documentation.

CORRECTIVE ACTIONS
The IRS will develop standards for case documentation and provide training for all Disclosure employees.

IMPLEMENTATION DATES:
December 1, 2000

RESPONSIBLE OFFICIAL
Director, Governmental Liaison and Disclosure

CORRECTIVE ACTIONS MONITORING PLAN
The Chief Communications and Liaison will follow up to ensure the new standards and training have been implemented by February 2001. Field reviews will incorporate comments on adherence to this procedure.