TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Significant Progress Has Been Made Implementing the Taxpayer First Act

March 29, 2023

Report Number: 2023-15-022

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HIGHLIGHTS: Significant Progress Has Been Made Implementing the Taxpayer First Act

Final Audit Report issued on March 29, 2023 **Report Number 2023-15-022**

Why TIGTA Did This Audit

The Taxpayer First Act, enacted July 1, 2019, consists of 45 sections and affects several organizations within the IRS. This audit was initiated to review the IRS's implementation of the Taxpayer First Act.

Impact on Tax Administration

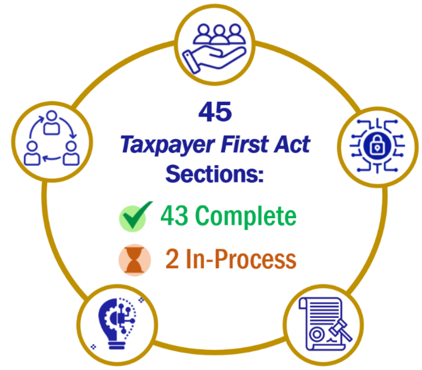
The Taxpayer First Act required the IRS to develop comprehensive strategies to improve customer service, enhance employee training, and modernize the agency's organizational structure. The IRS referred to these strategies as the taxpayer experience strategy, the training strategy, and the organizational redesign strategy.

The Taxpayer First Act also codified the IRS's independent Appeals function, modified the agency's enforcement authorities, expanded assistance for lower income taxpayers, and required additional measures to address identity theft tax refund fraud.

The IRS classified the 45 Taxpayer First Act sections into five categories, which include taxpayer experience, cybersecurity and identity protections, enforcement, IRS modernization, and IRS organization.

What TIGTA Found

The IRS has made significant progress implementing the 45 sections of the Taxpayer First Act. In January 2021, the taxpayer experience strategy, the training strategy, and the organizational redesign plan were outlined in detail as part of the Taxpayer First Act Report to Congress. As of March 2023, the IRS reported that implementation of 43 Taxpayer First Act sections were complete and two were still in process. The legislative due dates for the in-process sections were December 31, 2021, and January 1, 2023.



Since the Taxpayer First Act was enacted, TIGTA and the Government Accountability Office have reported on the IRS's progress implementing individual sections of the law. Our review summarized 18 completed oversight audits related to 18 sections of the Taxpayer First Act. These reports included recommendations, such as:

- Enhancing controls to ensure consistency in applying policies for accessing shared Federal tax information.
- Developing a communication strategy to educate taxpayers on the availability of the Identity Protection Personal Identification Number.

In addition, TIGTA summarized significant actions taken by the IRS to implement 10 judgmentally selected sections. These activities included updating forms and publications, issuing guidance, updating the Internal Revenue Manual, and communicating externally.

What TIGTA Recommended

Because this report was primarily based on a review of previously issued TIGTA and Government Accountability Office reports on the IRS's implementation of the Taxpayer First Act, TIGTA did not make any further recommendations. Key IRS officials reviewed this report prior to its issuance and agreed with the facts and conclusions presented.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

March 29, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Significant Progress Has Been Made Implementing the Taxpayer First Act (Audit # 202210512)

This report presents the results of our review of the Internal Revenue Service's implementation of the Taxpayer First Act.[1] This review is part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Administering Tax Law Changes*.

The Treasury Inspector General for Tax Administration made no recommendations as a result of the work performed during this review. However, key Internal Revenue Service officials reviewed this report prior to its issuance and agreed with the facts and conclusions presented.

If you have any questions, please contact me or Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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[1] Pub. L. No. 116-25, 133 Stat. 981 (codified in scattered sections of 26 U.S.C.).

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Background

The Taxpayer First Act (TFA), enacted July 1, 2019, consists of 45 sections and affects several organizations within the Internal Revenue Service (IRS).[1] The TFA required the IRS to develop comprehensive strategies to improve customer service, enhance employee training, and modernize the agency's organizational structure. The IRS referred to these strategies as the taxpayer experience strategy, training strategy, and organizational redesign strategy. These strategies were outlined in detail as part of the January 2021 TFA Report to Congress.[2]

The TFA also codified the IRS's independent Appeals function, modified the agency's enforcement authorities, expanded assistance for lower income taxpayers, and required additional measures to address identity theft tax refund fraud. Figure 1 outlines the specific categories designated by the IRS for the 45 TFA sections.

Figure 1: IRS Categorization of TFA Sections

The IRS has designated 5 specific categories for the 45 TFA sections.

Source: TFA Legislative Provisions page on the IRS intranet.

The TFA required the IRS to provide customer service and training strategies to Congress by July 1, 2020, and an IRS organizational redesign strategy to Congress by September 30, 2020. Of the 45 TFA sections, 36 were effective no later than one year after enactment, with 24 of the 36 sections effective on the date of enactment or within 60 days thereafter.

The TFA Office was established to collaborate with the business operating divisions (BOD) responsible for TFA section implementation, and to ensure that the TFA sections met legislative requirements and deadlines. In Fiscal Year 2021, the TFA Office's responsibilities transitioned to the IRS NEXT Office, which then became responsible for tracking and monitoring all open TFA

[1] Pub. L. No. 116-25, 133 Stat. 981 (codified in scattered sections of 26 U.S.C.).

[2] Publication 5426, *Taxpayer First Act Report to Congress*.

sections.[3] The IRS NEXT Office reported that the type of activities associated with the oversight of open section implementation included:

- Communicating with BOD owners.
- Reporting on progress and risk.
- Updating the Legislative Analysis, Tracking, and Implementation System (LATIS) to reflect current section status.[4]
- Coordinating between the BODs and additional internal implementation support functions, such as the Information Technology (IT) organization.
- Working with IRS Legislative Affairs on LATIS status updates and congressional information request coordination.

According to the TFA Report to Congress, the IRS considered a section of the TFA implemented when the minimum requirements of the section had been met as required by law. This meant that the BOD section owner had stated that the TFA codifying activities were completed or already in place or activities such as interim Internal Revenue Manual (IRM) updates, interim guidance, communications, or employee training were in place.[5]

IRS NEXT Office management stated that to track the completeness of an individual TFA section, the BOD section owner, co-owner, and any assigned assistance staff would hold meetings to discuss progress updates and responsibilities to complete any outstanding work. When the group agreed that the section was complete, that agreement was documented in the meeting notes. In August 2022, monitoring, oversight, and reporting of open TFA sections transitioned from the IRS NEXT Office to IRS Legislative Affairs and the respective BOD section owners. As of March 2023, only two of the 45 TFA sections remain open.[6]

[3] A fiscal year is any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

[4] The IRS considers LATIS the official, authoritative source for legislative section status. The BODs are required to use LATIS to track legislative actions.

[5] The IRM is the primary, official source of IRS instructions to staff related to the organization, administration, and operation of the IRS.

[6] The legislative due dates for the open sections were December 31, 2021, and January 1, 2023. Per IRS management, implementation of TFA § 2301 is delayed, as the Department of the Treasury has not yet published the final regulations. The section will apply for information returns filed during calendar years beginning after the date of publication of the Treasury decision adopting the final regulations in the Federal Registry. In addition, the Business Master File component of TFA § 2201 is ongoing and is expected to be completed in July 2023.

Results of Review

The IRS has made significant progress implementing the 45 sections of the TFA.[7] Since the TFA was enacted, the Treasury Inspector General for Tax Administration (TIGTA) and the Government Accountability Office (GAO) have reported on the IRS's progress implementing individual sections of the law. We reviewed and summarized 18 completed oversight reports related to 18 sections of the TFA.[8] We also summarized the actions taken by the IRS to implement 10 judgmentally selected sections.[9]

Our review summarized 18 completed oversight audits related to 18 sections of the Taxpayer First Act.

In addition, TIGTA summarized significant actions taken by the IRS to implement 10 judgmentally selected sections.

Prior Oversight of the Taxpayer First Act

TIGTA and the GAO have issued audit reports providing varying degrees of oversight of 18 TFA sections.[10] Figure 2 includes a complete list of the TFA sections with completed or in-process oversight reviews.[11] The two open TFA sections are also noted in the figure.

[7] See Appendix II for a complete list of TFA sections.

[8] TIGTA expects to complete additional audits related to TFA § 1405 (Audit #202130031, *IRS Whistleblower Program*) and TFA § 2101 (Audit #202220012, *Oversight of Shadow Information Technology*) by April 2023.

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

[10] Both TIGTA and the GAO performed audits related to TFA §§ 1101 and 1302.

[11] The total number of sections included in Figure 2 is 19. The in-process audit for § 2101 will be the second audit completed for that section. The in-process audit for § 1405 will be the first audit completed for that section.

Figure 2: TIGTA and GAO Oversight by TFA Section

Section (§)	Section Title	Oversight: TIGTA GAO
	Taxpayer Experience	
1001	Establishment of IRS Independent Office of Appeals	TIGTA
1101	Comprehensive customer service strategy	TIGTA, GAO
1405	Whistleblower reforms	TIGTA
1407	Misdirected tax refund deposits	TIGTA
3101	Mandatory e-filing by exempt organizations	TIGTA
	Cybersecurity and Identity Protections	
2003	Information sharing and analysis center	TIGTA
2005	Identity Protection Personal Identification Numbers	TIGTA
2006	Single point of contact for tax-related identity theft victims	TIGTA
2007	Notification of suspected identity theft	TIGTA
2008	Guidelines for stolen identity refund fraud cases	TIGTA
2202	Limit re-disclosures and uses of consent-based disclosures of tax return information	TIGTA
	Enforcement	
1205	Private debt collection and special compliance personnel program	TIGTA
	IRS Modernization	
2101	Management of IRS information technology	TIGTA
2102	Internet platform for Form 1099 filings	TIGTA
2103	Streamlined critical pay authority for information technology positions	TIGTA
2201	Disclosure of taxpayer information for third-party income verification (implementation in process – legislative due date of January 1, 2023)	TIGTA
2301	Electronic filing of returns (implementation in process – legislative due date of December 31, 2021)	TIGTA
2302	Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners	TIGTA
	IRS Organization	
1302	Modernization of IRS organizational structure	TIGTA, GAO

Source: The IRS reported status of TFA sections in LATIS and TIGTA's review of TIGTA and GAO reports.

We reviewed each oversight report for information on the implementation status of the TFA section or sections reviewed, and any recommended corrective actions. We also reviewed information in the Joint Audit Management Enterprise System to determine whether the IRS had taken any actions to address recommended corrective actions.[12] Overall, the oversight audits found that the IRS took action to implement these sections and identified areas for

[12] The system tracks specific information on issues, findings, recommendations, and planned corrective actions from audit reports issued by oversight agencies, such as TIGTA and the GAO.

improvement. See Appendix III for the full list of TIGTA and GAO oversight reports by TFA section.

Taxpayer Experience

The IRS identified 12 TFA sections as pertaining to the taxpayer experience. Five of the 12 sections had oversight from TIGTA or the GAO.

TFA § 1001: Establishment of IRS Independent Office of Appeals
The TFA renamed the IRS Office of Appeals as the IRS Independent Office of Appeals. It also required the IRS Independent Office of Appeals to make its referred case files available to: ➢ Individuals with adjusted gross incomes of $400,000 or less for the tax year to which the dispute relates. ➢ Entities with gross receipts of $5 million or less for the tax year to which the dispute relates. In addition, when the IRS or Chief Counsel has issued a notice of deficiency to a taxpayer and denies the taxpayer's request for referral to the IRS Independent Office of Appeals, the IRS must now issue a written notice to explain the cause for and how to protest the denial.

In February 2023, TIGTA completed an audit to evaluate the actions taken by the IRS Independent Office of Appeals to implement and comply with TFA § 1001.[13] TIGTA found that the IRS has taken action to implement TFA provisions related to Appeals, most notably creating a new process to provide specified taxpayers with case file access. However, some improvements were still needed. TIGTA made five recommendations to include establishing new and reinforcing existing policies to improve compliance with TFA § 1001. Recommendations were made to:

- ✓ Establish a process to identify, track, and update forms, letters, publications, notices, websites, and social media that still require the IRS Independent Office of Appeals name.
- ✓ Ensure Appeals personnel input appropriate Appeals system coding and documentation in their case file history and timely provide specified taxpayers a copy of their case file.
- ✓ Update procedures for cases being denied an appeal.
- ✓ Establish a tracking and documentation process for cases where legal assistance and advice are being requested.
- ✓ Update internal guidance on Chief Counsel's compliance with the requirement that legal assistance and advice is provided to Appeals by the Office of Chief Counsel staff, to the extent practical, who were not involved in the case and are not involved in preparing such case for litigation.

[13] TIGTA, Report No. 2023-15-010, *Actions Have Been Taken to Implement Taxpayer First Act Provisions Related to the IRS Independent Office of Appeals; However, Some Improvements Are Still Needed* (Feb. 2023).

TFA § 1101: Comprehensive customer service strategy

The TFA required the IRS to develop a comprehensive customer service strategy that included proposals for improved customer service in the short term (current and following fiscal year), the medium term (approximately three to five fiscal years), and the long term (approximately 10 fiscal years).

This plan must provide assistance to taxpayers that is secure, designed to meet reasonable taxpayer expectations, and adopt the appropriate best practices of customer service provided in the private sector, including online services, telephone callback services, and training of employees providing customer services.

The strategy must also include a plan to update guidance and training materials for customer service employees of the IRS and include identified metrics and benchmarks to quantitatively measure the progress in the implementation of the strategy.

In September 2020, the GAO made seven recommendations related to TFA § 1101, including that the IRS identify performance goals, measures, and targets, as well as analyze performance, develop processes to make decisions on resources needed, and report performance on improving the taxpayer experience.[14] In response to these recommendations, the IRS delivered the TFA Report to Congress on January 11, 2021, which contained a tiered framework of measures for implementing the Taxpayer Experience Strategy that each align to specific IRS strategic goals and objectives.

In an April 2021 report, TIGTA completed an assessment of the IRS's comprehensive customer service strategy, referred to as the Taxpayer Experience Strategy.[15] With the exception of the reporting due date to Congress, TIGTA found that the strategy met the legislative requirements of TFA § 1101 by including:

- ✓ A plan to provide secure assistance to taxpayers that meets reasonable expectations and adopts appropriate best practices of customer service.
- ✓ A thorough assessment of the services the IRS can co-locate with other Federal services or offer as self-service options.
- ✓ Proposals for improved customer service in the short term (current and following fiscal year), the medium term (three to five fiscal years), and the long term (10 fiscal years).
- ✓ Plans to update guidance and training material for customer service employees.
- ✓ Metrics and benchmarks to quantitatively measure progress.

[14] GAO, GAO-20-656, *Taxpayer Service: IRS Could Improve the Taxpayer Experience by Using Better Service Performance Measures* (Sept. 2020).

[15] TIGTA, Report No. 2021-46-029, *Assessment of the Effects of the Coronavirus Pandemic on Customer Service Operations* (Apr. 2021).

§ TFA § 1405: Whistleblower reforms

In order to improve IRS communications with whistleblowers, this section allows the IRS to exchange information with whistleblowers where doing so would be helpful to an investigation.

- It required the IRS to notify whistleblowers of the status of their claims at certain points in the review process and authorizes the IRS to provide status updates at other times upon written request of the whistleblower.
- To protect taxpayer privacy, it prohibited whistleblowers from disclosing publicly information they receive from the IRS under penalty of law.

In addition, this section amended the tax code to extend anti-retaliation sections to IRS whistleblowers.

TIGTA is currently in the process of completing an audit of this section with an overall objective to determine the effectiveness of the whistleblower program. The audit is expected to be completed by April 2023.

§ TFA § 1407: Misdirected tax refund deposits

This TFA section required the IRS to establish procedures for handling misdirected electronic tax refund deposits. These procedures should:

- Allow taxpayers to report when an electronic refund was not transferred to their account.
- Establish coordination with financial institutions to identify and recover these payments.
- Deliver refunds to the correct accounts of taxpayers.

In January 2021, TIGTA reported on the IRS's efforts to implement TFA § 1407 and determined that current processes and proposed regulations comply with TFA requirements, but made three recommendations.[16] TIGTA recommended contacting software vendors that were not currently preventing the direct deposit fields from being altered and developing a process to annually review software vendors to make sure the direct deposit fields cannot be altered. In addition, TIGTA recommended creating a closing code that would identify when the refund inquiry was completed as well as provide the cause of the misdirected refund on the tax account. The IRS agreed with all three recommendations and planned to implement corrective actions to help improve the resolution of misdirected refunds. In response to these recommendations, the IRS reported that the corrective actions related to the two direct deposit field recommendations were implemented in March 2021. As of September 2022, the IRS reported that the closing code recommendation is on hold until January 2024.

[16] TIGTA, Report No. 2021-40-012, *Processes Exist to Assist Taxpayers With Misdirected Refunds, but Additional Controls Could Further Help to Prevent Them* (Jan. 2021).

TFA § 3101: Mandatory e-filing by exempt organizations

- The TFA extended the requirement to electronically file (hereafter referred to as e-file) to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872, *Political Organization Report of Contributions and Expenditures*.[17]
- The TFA also required that the IRS make the information provided on the forms available to the public in a machine-readable format as soon as possible.

In May 2022, TIGTA reported on actions taken by the IRS to implement TFA § 3101.[18] TIGTA noted that the IRS issued a press release stating that tax-exempt organizations must e-file returns. In addition, IRS management stated that all Forms 990 were available for e-filing, but the IRS planned to send letters to filers who previously filed paper forms or were still filing via paper to inform them of the new requirements. In the interim, the IRS was still accepting paper returns for the Form 990 series as of May 2022. However, IRS management informed TIGTA in January 2023 that they no longer accept paper-filed Form 990 series information returns.

Cybersecurity and Identity Protections

The IRS identified 10 TFA sections as pertaining to cybersecurity and identity protections. Six of the 10 sections had oversight from TIGTA.

TFA § 2003: Information sharing and analysis center

The TFA authorizes the IRS to participate in the Information Sharing and Analysis Center (ISAC). The TFA allows the IRS to disclose certain return information to ISAC participants if the information helps with:

- Detecting or preventing identity theft tax refund fraud.
- Validating a taxpayer's identity.
- Authenticating taxpayer returns.
- Detecting or preventing cybersecurity threats to the IRS.

In July 2020, TIGTA reported on the implementation status of TFA § 2003 and found that the only measure the IRS has relative to the ISAC is level of participation.[19] IRS management stated that the increase in participation results in more alerts posted, which shows the success of the ISAC. The IRS reported that this section had been implemented, yet metrics to quantitatively measure the success of the ISAC in detecting and preventing identity theft tax refund fraud (*i.e.*, reporting number of tax returns stopped and refunds protected) had not been developed. TIGTA recommended that the IRS develop measures to report on the success of the ISAC in

[17] These would include Form 990, *Return of Organization Exempt from Income Tax*, Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, etc.*

[18] TIGTA, Report No. 2022-40-036, *A Service-Wide Strategy Is Needed to Address Challenges Limiting Growth in Business Tax Return Electronic Filing* (May 2022).

[19] TIGTA, Report No. 2020-40-040, *Constantly Evolving Refund Fraud Patterns Require Continued Refinement and Development of Detection Initiatives* (July 2020).

identifying and detecting fraudulent tax returns. In response to this recommendation, the IRS reported that it developed a cost-benefit analysis report in October 2020.

In a May 2021 report, TIGTA evaluated the IRS's memorandum of understanding with the contractor who operates and manages the ISAC to determine whether the procedures and guidelines for sharing Federal tax information with the ISAC and the industry partners complied with TFA § 2003.[20] TIGTA found that the memorandum of understanding for sharing Federal tax information with the ISAC complied with the TFA. TIGTA also determined that the data fields shared by the IRS with the ISAC contained only the specified return information in accordance with the TFA. However, TIGTA determined that additional policies, procedures, and actions were needed to improve the effectiveness of security over the sharing and storing of the data.

TIGTA recommended enhanced controls to ensure consistency in applying policies for accessing the shared Federal tax information and additional updates to the contractor's alternate processing site to meet the maximum tolerable downtime. In response to these recommendations, the IRS reported that it had updated employee access information in the ISAC privacy assessment in February 2021 and made updates to the servers that store Federal tax information in August 2021. The IRS also reported that the alternate processing site updates would be made by April 2024.

TFA § 2005: Identity Protection Personal Identification Numbers

The TFA requires the IRS to establish a program to issue an Identity Protection Personal Identification Number (IP PIN) to any U.S. resident who requests one. Additionally, the TFA requires the IRS to expand the issuance of IP PINs every year to people living in States that the IRS determines are appropriate, as long as the number of States served by the program continues to increase.

In a September 2020 report, TIGTA assessed the IRS's plans to implement TFA § 2005.[21] TIGTA found that taxpayers eligible to obtain an IP PIN might not be aware of their eligibility due to a lack of IRS advertising for its IP PIN opt-in Program. TIGTA recommended that the IRS develop a communication strategy to educate taxpayers about the availability of the IP PIN. In response to this recommendation, the IRS reported that the corrective action for the communication strategy was implemented in February 2021.

In a March 2022 report, TIGTA found the IRS automatically issues an IP PIN to confirmed identity theft victims if the case is resolved prior to the start of the next filing season.[22] TIGTA also found that in response to the TFA, taxpayers nationwide could request an IP PIN directly from the IRS if they are concerned that their personal information has been stolen and want to protect their identity when filing a Federal tax return.

The IRS has implemented processes to identify tax returns for which it has issued an IP PIN and the IP PIN is not provided or the number provided does not match IRS records. IRS management stated that tax returns with this condition were being worked in the Submission

[20] TIGTA, Report No. 2021-25-025, *Taxpayer First Act: Data Security in the Identity Theft Tax Refund Fraud Information Sharing and Analysis Center* (May 2021).

[21] TIGTA, Report No. 2020-45-070, *Taxpayer First Act: Implementation of Identity Theft Victim Assistance Provisions* (Sept. 2020).

[22] TIGTA, Report No. 2022-40-024, *Results of the 2021 Filing Season* (Mar. 2022).

Processing Unpostable function as potential "identity theft" returns. TIGTA recommended that the IRS evaluate the IP PIN unpostable process and determine whether it is an effective use of resources now that the IRS has implemented more robust systemic identity theft and non-identity theft fraud filters. In November 2022, the IRS reported that the Identity Protections Strategy and Oversight team had conducted a review of the IP PIN unpostable process to determine its effectiveness. Based on this review, the Return Integrity and Compliance Services function will incorporate the IP PIN unpostable population into its upfront filtering process for Filing Season 2023. Submission Processing will continue to work the inventory for the first few weeks of Filing Season 2023 to confirm that the Return Integrity and Compliance Services function enhanced filtering process is working as intended.

§ TFA § 2006: Single point of contact for tax-related identity theft victims

The TFA required the IRS to establish single-point-of contact procedures for taxpayers whose tax return processing has been delayed or negatively affected by tax-related identity theft. The contact will track the taxpayer's case to completion and coordinate with other IRS employees to resolve case issues as quickly as possible.

In a September 2020 report on the implementation of identity theft victim assistance provisions, TIGTA assessed the IRS's plans to implement TFA § 2006. TIGTA found that the IRS established a single point of contact to assist identity theft victims and resolve their cases efficiently. There were no recommendations made by TIGTA for this section of the TFA.

§ TFA § 2007: Notification of suspected identity theft

Effective January 1, 2020, the TFA requires the IRS to notify a taxpayer:

- If it finds any suspected unauthorized use of a taxpayer's identity or the identity of any of the taxpayer's dependents.
- If the IRS has initiated an investigation of the suspected identify theft and the status of the investigation.
- Whether the investigation proved unauthorized use of the taxpayer's identity.
- Whether any action has been taken (such as a referral for prosecution).

In addition, when an individual is charged with identity theft, the IRS must notify the victim as soon as possible, giving them the ability to pursue civil action against the suspect.

In this case, the unauthorized use of someone's identity includes when it is used to obtain employment.

In a September 2020 report on the implementation of identity theft victim assistance provisions, TIGTA assessed the IRS's plans to implement TFA § 2007. TIGTA's review of Letter 4674C, *Identity Theft Post-Adjustment Victim Notification Letter – ID Theft*, and CP01E Notice, *Employment-Related Identity Theft Notice*, found that these notifications alert victims to their identities being stolen and provide instructions on how they can reduce the burden of this crime. Both notifications meet the requirements in TFA § 2007.

TIGTA's review also identified that the Automated Underreporter Program's procedures provide employees detailed instructions on how to abate tax assessments and penalties in identity theft cases for which the taxpayer notifies the IRS that they did not earn the income. Accounts

Management function management stated that they were coordinating with Criminal Investigation to create additional notifications when an investigation of identity theft has been opened. At the time of TIGTA's review, the IRS did not have an estimated time for when these notifications would be sent to taxpayers. TIGTA did not make a recommendation related to investigation notifications.

TIGTA recommended that the IRS develop a process to identify and notify parents and legal guardians in cases in which an identity thief uses their dependent's Taxpayer Identification Number to work. In addition, TIGTA recommended that the IRS issue a notice to victims of employment identity theft every year that they are identified as a victim. The IRS disagreed with both recommendations. IRS management stated they notify victims of employment-related identity theft if they have an active tax account and do not intend to notify individuals without active tax accounts. In addition, IRS management does not believe issuing additional notices each year would provide additional information to victims of employment-related identity theft.

§ TFA § 2008: Guidelines for stolen identity refund fraud cases

The TFA requires that the IRS, in consultation with the National Taxpayer Advocate, develop and implement publicly available caseworker guidelines that reduce the administrative burdens for victims of identity theft tax refund fraud as they work with the IRS to sort out their tax issues. These guidelines must be implemented no later than July 2, 2020, and may include procedures to reduce the:

- Amount of time victims would wait to receive their tax refunds.
- The number of IRS employees with whom victims would need to interact.
- The time frame to resolve the issues related to the identity theft tax refund fraud.

In a September 2020 report on the implementation of identity theft victim assistance provisions, TIGTA assessed the IRS's plans to implement TFA § 2008. In response to this section, the IRS formed a task force in November 2019 to identify improvements to the case management guidelines and resources needed to implement new guidelines. Task force members stated that IRS office closures and shifting business priorities caused by the Coronavirus Disease 2019 pandemic affected the planned timeline to complete the guidelines. Due to temporary IRS office closures and efforts to issue economic stimulus payments related to the pandemic, the Commissioner, Wage and Investment Division, submitted a request for an extension to the IRS's TFA Office on May 6, 2020. TIGTA made no recommendations for this section of the TFA, and IRS documentation shows that the final guidance was updated in October 2021.

§ TFA § 2202: Limit re-disclosures and uses of consent-based disclosures of tax return information

This section limits the re-disclosure and use of return information in the case of taxpayers who have consented to the disclosure of their return information by the IRS to a third party under Internal Revenue Code (I.R.C.) § 6103(c). TFA § 2202 applies only to disclosures made by the IRS after December 28, 2019, and any subsequent re-disclosures and uses of such information disclosed by the IRS after December 28, 2019.

In a February 2021 report, TIGTA evaluated the IRS's progress in implementing TFA § 2202.[23] TIGTA issued an e-mail alert to the IRS on March 3, 2020, raising a concern that while the Form 4506-T, *Request for Transcript of Tax Return*, includes a line for third-party information, the client's name is not required on the form and is usually excluded when submitted by Income Verification Express Service (IVES) participants on behalf of their clients. Without the client's name on Form 4506-T, the taxpayer only grants consent to the IVES participant to receive their tax information. Therefore, TIGTA recommended that the IRS update the form and internal procedures to require the client's name in cases in which a participant submits Form 4506-T on behalf of a client. The IRS published a new transcript request form in September 2020 for IVES participants to request tax transcripts. However, this new Form 4506-C, *IVES Request for Transcript of Tax Return*, still did not require the client's name. Instead, Form 4506-C required only the name and address of the IVES participant. TIGTA recommended that the IRS update the transcript request form to include a separate line to identify the client and update the form instructions to require identifying information for the client for which the transcript is submitted by an IVES participant. In response to this recommendation, the IRS reported that Form 4506-C and its instructions have been drafted to include a line for client information, and a draft version is available on IRS.gov.

Enforcement

The IRS identified nine TFA sections as pertaining to enforcement. One of the nine sections had oversight from TIGTA.

§ TFA 1205: Private debt collection and special compliance personnel program
The TFA prohibits the IRS from using private collection agencies (PCA) to recover delinquent taxes from certain individuals. ➢ Those whose income is substantially all Supplemental Security Income (SSI) benefits. ➢ Those whose income is substantially all disability insurance benefit payments. ➢ Individuals whose adjusted gross income is below 200 percent of the applicable poverty level. This change applies to inactive tax receivables identified by the IRS in 2021 and later. The TFA changed the definition of inactive tax receivable. It replaces the condition that more than one-third of the applicable limitations period has lapsed. The new requirement is that more than two years has passed since assessment. The TFA also changed the length of installment agreements that private debt collectors can offer. Collectors can now offer individuals a seven-year agreement, instead of five.

In December 2020, TIGTA completed a review to evaluate the performance of the PCAs.[24] Part of the review briefly reported on actions taken by the IRS in response to TFA § 1205. TIGTA found that the IRS had already begun to exclude taxpayer cases with Social Security Disability Insurance (SSDI) from PCA inventory per the new requirements of the TFA. However, the IRS

[23] TIGTA, Report No. 2021-45-017, *Additional Security Processes Are Needed to Prevent Unauthorized Release of Tax Information Through the Income Verification Express Service Program* (Feb. 2021).

[24] TIGTA, Report No. 2021-30-010, *Fiscal Year 2021 Biannual Independent Assessment of Private Collection Agency Performance* (Dec. 2020).

stated that the Social Security Administration did not have the legal authority to provide SSI information in order for the IRS to exclude those taxpayers from PCA inventory. Therefore, the IRS is completely dependent on the PCAs to ensure that the accounts of taxpayers receiving SSI are returned to the IRS.

Additionally, TIGTA determined that the methodology being used by the IRS to exclude low-income taxpayers at or below 200 percent of the Federal poverty level might not prevent all of these taxpayers from being assigned to the PCAs. TIGTA recommended that the IRS include both last return filed information and third-party income in its methodology to exclude low-income taxpayers from PCA inventory. The IRS disagreed with the recommendation. IRS management believes that the IRS is acting consistent with the statute by applying the annual poverty level for a given year to the corresponding adjusted gross income determined by the filed tax return for the same year to determine if the account will be excluded from PCA assignment.

In December 2022, TIGTA completed an additional review to evaluate the performance of the PCAs.[25] TIGTA identified more than 14,000 taxpayers whose incomes fell beneath the threshold for PCA assignment after the TFA was enacted, but whose accounts were not recalled. TIGTA recommended that the IRS ensure that programming is in place to recall accounts of taxpayers who reflect income beneath the legal amount required for PCA assignment but whose accounts were assigned prior to January 1, 2021. The IRS disagreed with the recommendation stating that the law is very specific with the identification and exclusion of certain taxpayers, including low-income taxpayers. The IRS asserted that it excludes low-income taxpayers from assignment effective after December 31, 2020.

TIGTA also found that SSDI recipients were not always excluded from PCA assignment due to a timing issue. TIGTA identified 271 taxpayers who were assigned to the PCAs on or after January 1, 2021, while also receiving SSDI in Calendar Year 2021. While the IRS did recall these accounts, 243 accounts were not recalled until February 2022, and the remaining 28 accounts were recalled on June 6, 2022. TIGTA recommended that the IRS ensure that programming is working to recall taxpayers who begin receiving SSI or SSDI after PCA assignment. IRS management agreed with the recommendation, stating that they already have working programming in place to recall accounts of taxpayers who begin receiving SSI or SSDI after PCA placement.

Finally, TIGTA determined that programming to exclude SSI recipients from PCA inventory was completed in June 2022. The Consolidated Appropriations Act, 2021 was enacted on December 27, 2020,[26] and amended § 1106 of the Social Security Act to require the Social Security Administration to enter into an agreement with the Treasury Department to provide an indicator as to whether an individual receives SSDI or SSI benefits.[27]

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[25] TIGTA, Report No. 2023-30-005, *Fiscal Year 2023 Biannual Independent Assessment of Private Collection Agency Performance* (Dec. 2022).

[26] Pub. L. No. 116-260, 134 Stat. 1984.

[27] 42 U.S.C. § 1306.

IRS Modernization

The IRS identified nine TFA sections as pertaining to IRS Modernization. Six of the nine sections had oversight from TIGTA.

TFA § 2101: Management of IRS information technology

This section has multiple parts with specific requirements for the IRS's IT organization. First, the Commissioner of Internal Revenue must appoint an IRS Chief Information Officer (CIO). The CIO must maintain operational control of all IRS information technology and act as the chief advocate for the agency's technology needs, while also consulting with the Chief Procurement Officer on significant technology acquisitions. This section also requires the CIO to develop and implement a multiyear *Information Technology Strategic Plan* for the IRS. This plan must be reviewed and updated annually. Recognizing the significance of Enterprise Case Management and the Customer Account Data Engine 2 program, which is designed to replace the core components of one of the agency's major legacy systems, the law also requires independent verification and validation of these project plans.

In September 2021, TIGTA completed a review to assess the IRS's progress implementing TFA § 2101.[28] TIGTA found that the IRS had implemented most of the sections of TFA § 2101. In February 2021, the IRS Commissioner identified and appointed a permanent CIO. Further, the IRS developed a multiyear *Information Technology Strategic Plan* and arranged for an independent verification and validation assessment of systems implementation plans for two significant information technology applications. TIGTA confirmed that the contractor's reports were received prior to the TFA deadline. However, the IT organization had not updated the memorandum of understanding with Criminal Investigation, a business unit that operates its own information technology environment, to reflect the oversight requirements of TFA § 2101.

In addition, the CIO was not being notified of all significant information technology product and service acquisitions. Finally, the IT organization was not approving all significant information technology acquisitions as required.

TIGTA recommended that the CIO ensure that the oversight requirements of TFA § 2101 were addressed by Criminal Investigation. In addition, TIGTA recommended that the Chief Procurement Officer and the CIO review reporting options and implement the most effective approach for acquiring information technology products and services, and ensure that approval requirements were enforced for significant acquisitions. In response to these recommendations, the IRS reported that the CIO implemented an annual review of Criminal Investigation information technology practices and would continue to consult with the Chief Procurement Officer on significant information technology acquisitions. In addition, the IRS reported that the CIO, IT organization, and Office of the Chief Procurement Officer staff met on several occasions to discuss reporting options and to implement the most effective approach for acquiring information technology products and services.

TIGTA is currently in the process of completing an additional audit under this section with an overall objective to assess the efforts to manage hardware, software, information systems, and

[28] TIGTA, Report No. 2021-25-058, *Efforts to Implement Taxpayer First Act Section 2101 Have Been Mostly Successful* (Sept. 2021).

associated staff that reside outside the IT organization. The audit is expected to be completed by April 2023.

§ TFA § 2102: Internet platform for Form 1099 filings

The TFA requires the IRS to develop an internet portal by January 1, 2023, that allows taxpayers to e-file Forms 1099.[29] The portal is to be modeled after a system that allows employers to file Form W-2, *Wage and Tax Statement*, with the Social Security Administration. The website will provide taxpayers with IRS resources and guidance, and allow them to prepare, file, and distribute Forms 1099, and create and maintain tax records.

In a May 2022 report on business tax return electronic filing, TIGTA reported on actions taken by the IRS to implement TFA § 2102. TIGTA noted that the IRS formed a cross-functional team to determine requirements and obtained feedback from external parties to inform the development of a portal prototype. At the time of the report, the IRS was working with the IT organization to incorporate received feedback into the portal. According to LATIS, the IT organization concluded work for TFA § 2102 in December 2022.

§ TFA § 2103: Streamlined critical pay authority for information technology positions

The TFA reauthorized streamlined critical pay (SCP) authority for the IRS with respect to information technology positions. This authority ends on September 30, 2025. The SCP authority gives the IRS a management tool to quickly recruit and retain employees with high levels of expertise in technical or professional fields that are critical to the success of the IRS's restructuring efforts.

In May 2021, TIGTA completed a review to determine whether the IRS implementation of SCP authority in the IT organization conforms to established laws, policies, and regulations.[30] TIGTA found that the IRS SCP authority activities were compliant with the requirements of TFA § 2103 related policies and regulations. Specifically, all seven Calendar Year 2020 SCP candidate packages were approved by the IRS Commissioner, four-year appointment terms were clearly stipulated in their Final Offer letters, and compensation limits were followed. In addition, none of the SCP appointees were previously employed at the IRS. TIGTA made no recommendations as a result of the work performed during this review.

§ TFA § 2201: Disclosure of taxpayer information for third-party income verification

The TFA requires the IRS to develop, no later than January 1, 2023, an automated system to receive third-party income verification forms. This system would replace the current system, which relies on secure fax. This section also authorizes the IRS to charge a separate user fee on all IVES requests over a two-year period to fund the development of the new system.

In a February 2021 report on the IVES Program, TIGTA reported that the IRS is developing an online system to process IVES participants' tax transcript request forms. The system will replace the current partially automated system, which requires employees to manually process the transcript requests. This new system will also allow the IRS to continue processing IVES

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[29] These would include Form 1099-MISC, *Miscellaneous Income,* Form 1099-NEC, *Non-Employee Compensation*, *etc.*

[30] TIGTA, Report No. 2021-25-032, *Streamlined Critical Pay Authority for Information Technology Positions Is Being Successfully Implemented* (May 2021).

transcript requests if the IRS experiences another crisis like the Coronavirus Disease 2019 pandemic, which caused the IRS to temporarily cease operations at its submission processing locations. TIGTA noted that the IRS had developed a high-level solution concept for the new system detailing the business process flow and system requirements. In October 2020, the IRS began the architecture and engineering design phase of its project development cycle and prepared a high-level system development and implementation schedule.

To establish the user fee amount, the IRS came up with a preliminary cost estimate of $75.3 million to develop and deploy the new IVES system. The IRS also analyzed IVES historical transcript request volumes and worked with the IVES Participant Working Group to estimate 12 million Forms 4506-T would be submitted to the IVES Program in Fiscal Year 2020. Based on these estimates, the IRS increased its transcript request fee from $2 to $5 starting on March 1, 2020. The fee increase was expected to raise $36 million in the first year; however, as of July 31, 2020, the IRS spent more than $9.3 million developing the system and collected approximately $6 million in fees. TIGTA recommended that the IRS ensure that the project schedule and cost estimates were finalized and the user fee increase amount be adjusted to cover the development cost. In response to this recommendation, the IRS reported that as of November 1, 2021, sufficient resources were collected to cover the development cost.

In March 2023, TIGTA completed an additional review on the IVES program.[31] TIGTA found that the IRS did not have the capability to process business transcript requests by January 1, 2023. In addition, despite the TFA requiring that the IRS create a new online system to process transcript requests, IRS management has not yet made a decision to require participants to use the new system. TIGTA recommended that the CIO ensure that business transcript capability is implemented as soon after the January 2023 legislative deadline as possible. IRS management agreed with this recommendation and will ensure that the business transcript request capability is implemented by July 2023. TIGTA also recommended that the IRS complete a usage study and document a decision regarding if the IRS will mandate that participants use the IVES system. IRS management agreed and will perform a study on IVES participation and taxpayers’ adoption of the online account access. Management plans to begin collecting data for the study in January 2024 and will develop a policy decision by January 15, 2025.

§ TFA § 2301: Electronic filing of returns

Prior law prohibited any requirement that persons who file fewer than 250 returns during a calendar year do so electronically. Under the TFA, the 250 is reduced to 100 in Calendar Year 2021, and from 100 to 10 in Calendar Year 2022 and thereafter. In the case of a partnership, the number will be 200 for Calendar Year 2018, 150 for Calendar Year 2019, 100 for Calendar Year 2020, 50 for Calendar Year 2021, and 10 for Calendar Year 2022 and thereafter.

The TFA also authorizes the IRS to waive the requirement that a tax return preparer must file electronically. A preparer may apply for a waiver and demonstrate that their inability to file electronically is due to lack of internet availability (other than dial-up or satellite service) in the geographic location where the return preparation business is operated.

[31] TIGTA, Report No. 2023-45-014, *Additional Actions Are Needed to Improve and Secure the Income Verification Express Service Program* (Mar. 2023).

In a May 2022 report on business tax return electronic filing, TIGTA reported on actions taken by the IRS to implement TFA § 2301. TIGTA noted that the IRS developed the new online Information Returns Application to allow customers to log in, beginning September 2021, and apply for the transmitter control code to e-file returns through Filing Information Returns Electronically Applications.

TFA § 2302: Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners

The TFA requires the IRS to publish guidance to establish uniform standards and procedures for the acceptance of taxpayers' electronic signatures, which are meant to authorize disclosure to a practitioner or for any power of attorney granted by a taxpayer to a practitioner. The guidance was required to be published by January 1, 2020.

In September 2020, TIGTA evaluated the IRS efforts to implement TFA § 2302.[32] TIGTA reported that the IRS had not made sufficient progress developing an online third-party authorization tool to verify and accept taxpayers' e-signatures on authorization forms. In addition, the IRS did not meet the TFA deadline (January 1, 2020) to publish guidance on standards for verifying taxpayers' e-signatures on Form 2848, *Power of Attorney and Declaration of Representative*, and Form 8821, *Tax Information Authorization*. TIGTA recommended that the IRS develop an alternative solution for verifying taxpayers' e-signatures on Forms 2848 and 8821. In response to this recommendation, the IRS reported that the Taxpayer Digital Communication channel to submit Forms 2848 and 8821 online went live on January 25, 2021. The update stated that the Taxpayer Digital Communication Platform allows practitioners to submit authorizations on Form 2848 and Form 8821 with electronic signatures.

In a February 2021 report on the IVES Program, TIGTA reported that actions were completed to comply with TFA § 2302. For example, the IRS established uniform standards and procedures for the acceptance of taxpayers' signatures appearing in electronic form with respect to any request for disclosure of a taxpayer's return or return information. This guidance was published in the IRM in December 2019 and addresses electronic signatures on forms used to request tax information, including Form 4506-T.[33] While guidance was published to meet this TFA requirement, five recommendations were made to improve the IVES Program. In response to these recommendations, the IRS reported that a list of authorized e-signature users is being maintained. In addition, the Form 4506-C will be updated to include a box indicating an electronic signature, and the IRS plans to validate signatures against the current list of authorized e-signature users in Calendar Year 2023.

IRS Organization

The IRS identified five TFA sections as pertaining to the IRS Organization. One of the five sections had oversight from TIGTA and the GAO.

[32] TIGTA, Report No. 2020-40-067, *Improvements Are Needed to Address Continued Deficiencies in Ensuring the Accuracy of the Centralized Authorization File* (Sept. 2020).

[33] IRM 10.10.1 (Dec. 3, 2019).

§ TFA § 1302: Modernization of IRS organizational structure

The TFA required that by September 30, 2020, the IRS must submit a comprehensive written plan to redesign the organization to Congress. This plan was required to:

- Ensure the successful implementation of the priorities specified by Congress in the TFA.
- Prioritize taxpayer services to ensure that all taxpayers easily and readily receive the assistance that they need.
- Streamline the structure of the IRS including minimizing the duplication of services and responsibilities.
- Best position the IRS to combat cybersecurity and other threats.
- Address whether Criminal Investigation should report directly to the Commissioner of Internal Revenue.

The TFA also removed the IRS Restructuring and Reform Act of 1998 requirement of an organizational structure that features operating units serving particular groups of taxpayers with similar needs one year after the comprehensive plan to modify the organization of the IRS was submitted to Congress.[34]

In October 2020, the GAO reported that the IRS established a senior-level team, the TFA Office, to lead its reorganization planning efforts.[35] Further, the GAO also reported that the IRS had developed preliminary goals and performance measures for its reorganization plan, but it had not finalized them. The IRS had also researched potential actions it could take to address long-standing management challenges at the IRS, such as those related to duplication or overlap resulting from programs having similar goals or engaging in the same activities that the GAO has identified previously. However, the IRS had not yet decided on a specific course of action to address those areas in its plan.

The GAO made three recommendations to the IRS as it completed its reorganization plan, including that the IRS should finalize goals and performance measures and identify specific actions to address long-standing management challenges. In response to these recommendations, the IRS reported that on January 11, 2021, the IRS delivered the TFA Report to Congress, which outlined a high-level IRS reorganization strategy and identified several notional performance measures to assess its progress. The IRS plans to release an organization blueprint report after the Inflation Reduction Act Strategic Operating Plan is finalized in FY 2023. The organization blueprint report will provide additional detail on the IRS's reorganization plan and operating model.

In March 2022, TIGTA completed a review to determine what progress the IRS has made toward addressing legislated sections of the TFA with its organizational redesign strategy.[36] TIGTA found that the IRS planned and completed actions for most of TFA § 1302. In accordance with TFA § 1302(a), the IRS submitted its written plan to Congress on January 11, 2021, to propose its

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[34] 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).

[35] GAO, GAO-21-18, *IRS Reorganization: Planning Addressed Key Reform Practices, but Goals and Measures for the Plan Have Not Been Finalized* (Oct. 2020).

[36] TIGTA, Report No. 2022-15-031, *Redesign Efforts for Most Taxpayer First Act Section 1302 Requirements Were Planned or Completed; However, Implementation Schedules and Reorganization Plans Need to Be Finalized* (Mar. 2022).

organizational changes. The submission also addressed TFA § 1302(b) because the restriction on the organizational structure contained in the IRS Restructuring and Reform Act of 1998 expired on January 11, 2022. The IRS completed TFA § 1302(a)5 by recommending that Criminal Investigation not report directly to the Commissioner due to identified risks and challenges. TIGTA recommended that prior to implementing additional changes to the organizational structure, the IRS should ensure that requests for organizational change are properly prepared, submitted, and approved. IRS management agreed with the recommendation and plans to ensure that requests for organizational change are completed in accordance with the IRM.[37]

Additional Review of Selected Implementation Actions for the Taxpayer First Act

We selected and reviewed a judgmental sample of 10 TFA sections with no prior oversight by TIGTA or the GAO. The IRS considered each of the 10 sections implemented, meaning that all activities to fully implement these sections have been completed. Figure 3 identifies the 10 sections reviewed in our judgmental sample.

Figure 3: TIGTA Review of Additional TFA Sections

§	Section Title
	Taxpayer Experience
1402	Provision of information regarding low-income taxpayer clinics
1403	Notice from IRS regarding closure of taxpayer assistance centers
1404	Rules for seizure and sale of perishable goods restricted to only perishable goods
	Cybersecurity and Identity Protections
2009	Increased penalty for improper disclosure or use of information by preparers of returns
	Enforcement
1201	IRS seizure requirements with respect to structuring transactions
1202	Exclusion of interest received in action to recover property seized by the IRS based on structuring transactions
1204	Modification of procedures for issuance of third-party summons
1208	Limitation on access of non-IRS employees to returns and return information
	IRS Organization
3001	Prohibition on rehiring any employee of the IRS who was involuntarily separated from service for misconduct
3002	Notification of unauthorized inspection or disclosure of returns and return information

Source: TIGTA's review of a judgmental sample of TFA sections.

We assessed the IRS's progress in implementing each TFA section by identifying the types of actions the IRS has taken. We obtained this information by reviewing the completed actions in LATIS, reviewing information provided by the IRS NEXT Office, and performing our own independent research. For all 10 TFA sections, we were able to confirm that the significant

[37] IRM 1.1.4.1 and 1.1.4.5 (May 26, 2021).

actions required to consider the section complete were implemented. At a minimum, these activities included updating forms and publications, issuing guidance, updating the IRM, and communicating externally. We did not evaluate whether the IRS was adhering to updated procedures.

Taxpayer Experience

The IRS identified 12 TFA sections as pertaining to the taxpayer experience. We reviewed three of the 12 sections as part of our judgmental sample. As previously mentioned, TIGTA reviewed five of the 12 as part of prior audit work.

§ TFA § 1402: Provision of information regarding low income taxpayer clinics.
Low income taxpayer clinics (LITC) assist low-income taxpayers with representation in controversies with the IRS. Prior to the TFA, the Department of the Treasury prohibited IRS employees from referring taxpayers to qualified LITCs for advice and assistance.[38] The TFA amended the I.R.C. to allow officers and employees of the Department of the Treasury to advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from qualified LITCs that receive funding under I.R.C. § 7526(c), and to provide location and contact information for such clinics.

To implement this section, the IRS issued internal guidance in April 2020 to raise awareness of a change in the law authorizing IRS employees to refer taxpayers to LITCs for assistance. In addition, the IRS updated the IRM in October 2021 to mirror TFA changes.[39] The IRM also provides information on the publicly available list of LITCs.[40]

§ TFA § 1403: Notice from IRS regarding closure of taxpayer assistance centers
The IRS operates taxpayer assistance centers (TAC) around the country to provide face-to-face assistance with understanding tax laws. This section of the TFA requires the IRS to provide public notice, including by non-electronic means, to affected taxpayers 90 days prior to the closure of a TAC. The notice must include information on alternative forms of assistance available for affected taxpayers and the date of the proposed closure. The IRS also must notify Congress and provide the reasons for the closure.

To implement this section, the IRS updated the IRM in October 2019 to change the communication plan dates from 60 days prior to closure to 90 days.[41] This plan includes notifying the public that the IRS is considering moving or consolidating the TAC, with a specific time frame of when this may take place.[42] For relocation of a TAC, it also identifies relocation signage[43] and an insert that will display the new location address.[44] Finally, the IRS created an

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[38] 5 C.F.R. 3101.106(a) (2014).

[39] IRM 13.8.1.1.1(4) (Oct. 1, 2021).

[40] Publication 4134, *Low Income Taxpayer Clinic List*.

[41] IRM 1.4.11.12.2.1 (Oct. 2, 2019).

[42] Publication 5284, *Your Opinion Counts Taxpayer Assistance Center Poster*.

[43] Publication 4987, *Relocation Poster for Field Assistance Taxpayer Assistance Centers*.

[44] Form 14098, *Taxpayer Assistance Center Relocating Sign*.

internal resource that provides high-level "how to" information, including all supporting details and documentation, to notify the public and all stakeholders of TAC relocations or closures.[45]

TFA § 1404: Rules for seizure and sale of perishable goods restricted to only perishable goods

Prior to the TFA, I.R.C. § 6336 authorized the IRS to seize and sell a taxpayer's property on the same day if the IRS deemed it to be perishable.[46] Perishable goods were defined as those that (1) are liable to perish, (2) become greatly reduced in price or value by keeping, or (3) cannot be kept without great expense to the IRS. This section limited the IRS's ability to seize a taxpayer's property and hold a same-day auction to only property that is likely to perish. Property that is greatly reduced in price or value by being held or that cannot be held without great expense is no longer eligible to be sold on the same day by deeming it perishable.

To implement this section, the IRS updated the IRM in December 2019 to mirror the limitations set forth by the TFA.[47] The IRM states that to be property that is liable to perish, "the property must be tangible personal property and have a short life expectancy or limited shelf life, an expectation of spoilage, or will rapidly rot, decay, decompose, or expire."

Cybersecurity and Identity Protections

The IRS identified 10 TFA sections as pertaining to cybersecurity and identity protections. We reviewed one of the 10 sections as part of our judgmental sample. As previously mentioned, TIGTA reviewed six of the 10 as part of prior audit work.

TFA § 2009: Increased penalty for improper disclosure or use of information by preparers of returns

Prior to the TFA, the I.R.C. provided both civil and criminal penalties for a tax return preparer who disclosed any information furnished to the preparer for, or in connection with, the preparation of such return or used such information for any purpose other than to prepare or assist in preparing, any such return. The civil penalty under I.R.C. § 6713 was $250 for each unauthorized disclosure or use up to $10,000 per calendar year.[48] The TFA increased the civil penalty for the unauthorized disclosure or use of information by tax return preparers from $250 to $1,000 per case, and from $10,000 to $50,000 per calendar year, when the disclosure or use is made in connection with a crime relating to the misappropriation of another person's taxpayer identity.[49] Prior to the TFA, the corresponding criminal penalty under I.R.C. § 7216 provided that knowing or reckless conduct is a misdemeanor, subject to a fine up to $1,000, one year of imprisonment, or both, together with the costs of prosecution.[50] The TFA increased the criminal penalty to $100,000 when involving a crime relating to the misappropriation of another person's taxpayer identity.

[45] *IRS Taxpayer Assistance Center Real Estate Playbook* (Dec. 2021).
[46] I.R.C. § 6336 (2019).
[47] IRM 5.10.1.7 (Dec. 20, 2019).
[48] I.R.C. § 6713 (2019).
[49] The enhanced penalty applies regardless of whether the crime involves tax filings.
[50] I.R.C. § 7216 (2019).

To implement this section, the IRS updated the IRM in August 2019 to mirror the civil penalty changes set forth by the TFA.[51] In addition, the form for return preparer penalty cases where agreement has been reached was updated with the increased civil penalties.[52]

Enforcement

The IRS identified nine TFA sections as pertaining to enforcement. We reviewed four of the nine sections as part of our judgmental sample. As previously mentioned, TIGTA reviewed one of the nine as part of prior audit work.

TFA § 1201: IRS seizure requirements with respect to structuring transactions

The Bank Secrecy Act mandates reporting and record-keeping requirements, including the reporting of currency transactions exceeding $10,000, to assist Federal law enforcement and regulatory agencies in the detection, monitoring, and tracing of certain monetary transactions.[53] To circumvent these reporting requirements, individuals may structure cash transactions to fall below the $10,000 reporting threshold (also known as "structuring"). Prior to the TFA, 31 U.S.C. § 5317(c)(2) authorized forfeiture of property involved in transactions or attempted transactions in violation of these rules.[54]

However, the TFA changed the law to provide that in cases of suspected structuring violations, the IRS may only pursue the seizure or forfeiture of assets if either the property to be seized was derived from an illegal source or the transactions were structured for the purpose of concealing a violation of a criminal law or regulation other than the rules against structuring. The TFA established post-seizure notice and review procedures for IRS seizures based on suspected structuring violations. The IRS must, within 30 days, make a good faith effort to find all persons with an ownership interest in the property seized and inform them of their post-seizure hearing rights. This 30-day notice requirement may be extended an additional 30 days if the IRS can establish to a court probable cause of an imminent threat to national security or personal safety. If a notice recipient requests a court hearing within 30 days of the notice, the property is required to be returned unless the court finds that:

- There is probable cause to believe that a structuring violation occurred involving such property and the property to be seized was derived from an illegal source; or
- The funds were structured for the purpose of concealing the violation of a criminal law or regulation other than 31 U.S.C. § 5324.

To implement this section, the IRS updated IRM guidance in February 2021 to mirror TFA changes.[55] The guidance states that Criminal Investigation may only seize property by reason of a claimed violation of 31 U.S.C. § 5324 if the property to be seized was: (1) derived from an illegal source or (2) the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than 31 U.S.C. § 5324. The IRM also outlines the notice requirements and time frames outlined in the TFA.

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[51] IRM 20.1.6.7.2 (Aug. 29, 2019).

[52] Form 5816, *Report of Tax Return Preparer Penalty Case*.

[53] Pub. L. No. 91-508, 84 Stat. 1114-4 (1970) (codified as amended in scattered sections of 12, 18, and 31 U.S.C.).

[54] 31 U.S.C. § 5317(c)(2) (2019).

[55] IRM 9.7.1.3.1(6)(a-c) (Feb. 15, 2021).

§ TFA § 1202: Exclusion of interest received in action to recover property seized by the IRS based on structuring transactions

This section amended the existing law to exclude from gross income any interest received from the Federal Government in connection with an action to recover property seized by the IRS pursuant to a claimed violation of the structuring provisions of the Bank Secrecy Act.[56]

To implement this section, the IRS updated IRM guidance in February 2021 to mirror TFA changes.[57] When applicable, the IRM requires the Director of Warrants and Forfeiture to inform the Department of the Treasury Executive Office for Asset Forfeiture that such interest is tax exempt to ensure that the Department of the Treasury Executive Office for Asset Forfeiture indicates such on the issued Form 1099-INT, *Interest Income*.

§ TFA § 1204: Modification of procedures for issuance of third-party summons

A John Doe summons is one that does not identify the person with respect to whose liability the summons is issued. Prior to the TFA, I.R.C. § 7609 authorized the IRS to issue a John Doe summons as part of an investigation of a specific, unidentified person or group or class of persons whose identity was unknown.[58] TFA § 1204 clarified the IRS's authority to issue John Doe summonses by emphasizing that the IRS must narrowly tailor such a summons to seek only information that pertains to the failure (or potential failure) of the person or group of persons to comply with Federal tax law.

To implement this section, the IRS updated IRM guidance in June 2020 to include the narrative update from the TFA.[59] The IRM update states that the new language "is not an expressed additional requirement for a John Doe summons, but a condition that applies to the three requirements for a John Doe summons." It instructs employees to discuss with Chief Counsel the wording to be used in the summons to ensure all requirements are met.

§ TFA § 1208: Limitation on access of non-IRS employees to returns and return information

Generally, returns and return information are confidential and cannot be disclosed unless authorized by the I.R.C.[60] This section amended the I.R.C. to prohibit a person, other than an officer or employee of the IRS, from examining books and records as part of an examination, other than for the sole purpose of serving as an expert.[61] This section also ensures that only IRS employees or Chief Counsel are able to question a witness under oath whose testimony was obtained by summons.

To implement this section, the IRS updated the IRM in March 2020 to mirror TFA changes.[62] The updated section states that, "the new provision is not intended to restrain the IRS from continuing to use court reporters, translators or interpreters, photocopy services, and other

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[56] I.R.C. § 139H.

[57] IRM 9.7.1.3.1(6)(d-e) (Feb. 15, 2021).

[58] I.R.C. § 7609 (2019).

[59] IRM 25.5.7.4(3) (June 4, 2020).

[60] I.R.C. § 6103(a).

[61] I.R.C. § 7602.

[62] IRM 11.3.24 (Mar. 17, 2020).

similar ancillary contractors. Court reporters and translators or interpreters may continue to perform their usual roles in summons interviews."

IRS Organization

The IRS identified five TFA sections as pertaining to the IRS Organization. We reviewed two of the five sections as part of our judgmental sample. As previously mentioned, TIGTA reviewed one of the five as part of prior audit work.

§ TFA § 3001: Prohibition on rehiring any employee of the IRS who was involuntarily separated from service for misconduct
The TFA amended I.R.C. § 7804 to prohibit the IRS from rehiring a former employee who was removed for misconduct.

To implement this section, the IRS updated the IRM in April 2021 to mirror the section language.[63] The IRM requires the Human Capital Office to conduct a mandatory check for all applicants using the IRS system that tracks employee misconduct, and send all prior performance and misconduct issues to the selecting official for consideration prior to a firm offer being issued. The IRM also reiterates that if an applicant is a former IRS employee who was removed from the IRS for performance or misconduct (regardless of when the removal occurred), the individual is ineligible.

§ TFA § 3002: Notification of unauthorized inspection or disclosure of returns and return information
The TFA requires the IRS to notify a taxpayer if any disciplinary or adverse action is taken against an IRS employee or employee of any other Federal or State agency for unauthorized inspection or disclosure of the taxpayer's return or return information. The notice must include the date of the unauthorized inspection or disclosure and the rights of the taxpayer as a result of such administrative determination.

To implement this section, the IRS Office of Safeguards issued a security and privacy alert in February 2020 to external agencies required to implement TFA § 3002. The IRS Office of Safeguards also held four informational calls with government agency participants in March 2020. In November 2021, the IRS updated guidance for Federal, State, and local agencies related to the security of tax information.[64] This guidance states:

> *The agency must provide written notification to a taxpayer whose Federal tax information was subject to unauthorized access or disclosure when a disciplinary or adverse action is proposed against the agency employee responsible. The required written notification to the taxpayer must include the date of the unauthorized inspection or disclosure and the rights of the taxpayer under I.R.C. § 7431. The agency must confirm to the IRS Office of Safeguards when the required written notification to the taxpayer is completed. In addition, the*

[63] IRM 6.332.2 (Apr. 6, 2021).

[64] Publication 1075, *Tax Information Security Guidelines For Federal, State and Local Agencies, Safeguards for Protecting Federal Tax Returns and Return Information.*

agency must inform the IRS Office of Safeguards of any pending media releases, including sharing a draft of the release, prior to distribution.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to review the IRS's implementation of the TFA. To accomplish our objective, we:

- Determined the roles and responsibilities of the TFA Office, the IRS NEXT Office, and the BODs when implementing sections of the TFA.
- Determined the status of the IRS's implementation of each TFA section.
- Reviewed TIGTA's and the GAO's prior and ongoing work related to TFA implementation, including the implementation of any recommendations.
- Selected a judgmental sample of 10 TFA sections with no prior oversight by TIGTA or the GAO and reviewed the actions taken by the IRS to implement each section.[1]

Performance of This Review

This review was performed with information obtained from the IRS NEXT Office during the period September 2021 through February 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 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 Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Glen Rhoades, Director; Melinda Dowdy, Audit Manager; Lindsay Steward, Audit Manager; Zachary Orrico, Lead Auditor; Evan Close, Senior Auditor; and Eleina Monroe, Senior Evaluator.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from LATIS. We evaluated the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of this report.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. This report presents an overall summary of the IRS's progress implementing the TFA based on prior oversight and a high-level

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

description of actions taken. Therefore, we did not evaluate internal controls as part of this review.

Appendix II

Taxpayer First Act Sections

§	Section Title	Oversight: TIGTA / GAO / Judgmental Sample
	Taxpayer Experience	
1001	Establishment of IRS Independent Office of Appeals	TIGTA
1101	Comprehensive customer service strategy	TIGTA, GAO
1102	Low-income exception for payments otherwise required in connection with a submission of an offer-in-compromise	
1401	Return preparation programs for applicable taxpayers	
1402	Provision of information regarding low-income taxpayer clinics	Judgmental Sample
1403	Notice from IRS regarding closure of taxpayer assistance centers	Judgmental Sample
1404	Rules for seizure and sale of perishable goods restricted to only perishable goods	Judgmental Sample
1405	Whistleblower reforms	TIGTA
1406	Customer service information	
1407	Misdirected tax refund deposits	TIGTA
3101	Mandatory e-filing by exempt organizations	TIGTA
3102	Notice required before revocation of tax-exempt status for failure to file return	
	Cybersecurity and Identity Protections	
2001	Public-private partnership to address identity theft refund fraud	
2002	Recommendations of Electronic Tax Administration Advisory Committee regarding identity theft refund fraud	
2003	Information sharing and analysis center	TIGTA
2004	Compliance by contractors with confidentiality safeguards	
2005	Identity Protection Personal Identification Numbers	TIGTA
2006	Single point of contact for tax-related identity theft victims	TIGTA
2007	Notification of suspected identity theft	TIGTA
2008	Guidelines for stolen identity refund fraud cases	TIGTA
2009	Increased penalty for improper disclosure or use of information by preparers of returns	Judgmental Sample
2202	Limit re-disclosures and uses of consent-based disclosures of tax return information	TIGTA

§	Section Title	Oversight: TIGTA / GAO / Judgmental Sample
	Enforcement	
1201	IRS seizure requirements with respect to structuring transactions	Judgmental Sample
1202	Exclusion of interest received in action to recover property seized by the IRS based on structuring transaction	Judgmental Sample
1203	Clarification of equitable relief from joint liability	
1204	Modification of procedures for issuance of third-party summons	Judgmental Sample
1205	Private debt collection and special compliance personnel program	TIGTA
1206	Reform of notice of contact of third parties	
1207	Modification of authority to issue designated summons	
1208	Limitation on access of non-IRS employees to returns and return information	Judgmental Sample
3201	Increase in penalty for failure to file	
	IRS Modernization	
2101	Management of IRS information technology	TIGTA
2102	Internet platform for Form 1099 filings	TIGTA
2103	Streamlined critical pay authority for information technology positions	TIGTA
2201	Disclosure of taxpayer information for third-party income verification (implementation in process – legislative due date of January 1, 2023)	TIGTA
2301	Electronic filing of returns (implementation in process – legislative due date of December 31, 2021)	TIGTA
2302	Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners	TIGTA
2303	Payment of taxes by debit and credit cards	
2304	Authentication of users of electronic services accounts	
2401	Repeal of provision regarding certain tax compliance procedures and reports	
	IRS Organization	
1301	Office of the National Taxpayer Advocate	
1302	Modernization of IRS organizational structure	TIGTA, GAO
2402	Comprehensive training strategy	
3001	Prohibition on rehiring any employee of the IRS who was involuntarily separated from service for misconduct	Judgmental Sample
3002	Notification of unauthorized inspection or disclosure of returns and return information	Judgmental Sample

Source: The IRS reported status of TFA section in LATIS, TIGTA's review of TIGTA and GAO reports, and TIGTA's review of a judgmental sample of additional TFA sections.

Appendix III

Oversight Reports by Taxpayer First Act Section

Report Number	Report Title	TFA Section(s)
GAO-20-656	*Taxpayer Service: IRS Could Improve the Taxpayer Experience by Using Better Service Performance Measures* (Sept. 2020).	1101
GAO-21-18	*IRS Reorganization: Planning Addressed Key Reform Practices, but Goals and Measures for the Plan Have Not Been Finalized* (Oct. 2020).	1302
2020-40-040	*Constantly Evolving Refund Fraud Patterns Require Continued Refinement and Development of Detection Initiatives* (July 2020).	2003
2020-40-067	*Improvements Are Needed to Address Continued Deficiencies in Ensuring the Accuracy of the Centralized Authorization File* (Sept. 2020).	2302
2020-45-070	*Taxpayer First Act: Implementation of Identity Theft Victim Assistance Provisions* (Sept. 2020).	2005 2006 2007 2008
2021-25-025	*Taxpayer First Act: Data Security in the Identity Theft Tax Refund Fraud Information Sharing and Analysis Center* (May 2021).	2003
2021-25-032	*Streamlined Critical Pay Authority for Information Technology Positions Is Being Successfully Implemented* (May 2021).	2103
2021-25-058	*Efforts to Implement Taxpayer First Act Section 2101 Have Been Mostly Successful* (Sept. 2021).	2101
2021-30-010	*Fiscal Year 2021 Biannual Independent Assessment of Private Collection Agency Performance* (Dec. 2020).	1205
2021-40-012	*Processes Exist to Assist Taxpayers With Misdirected Refunds, but Additional Controls Could Further Help to Prevent Them* (Jan. 2021).	1407
2021-45-017	*Additional Security Processes Are Needed to Prevent Unauthorized Release of Tax Information Through the Income Verification Express Service Program* (Feb. 2021).	2201 2202 2302
2021-46-029	*Assessment of the Effects of the Coronavirus Pandemic on Customer Service Operations* (Apr. 2021).	1101
2022-15-031	*Redesign Efforts for Most Taxpayer First Act Section 1302 Requirements Were Planned or Completed; However, Implementation Schedules and Reorganization Plans Need to Be Finalized* (Mar. 2022).	1302
2022-40-024	*Results of the 2021 Filing Season* (Mar. 2022).	2005
2022-40-036	*A Service-Wide Strategy Is Needed to Address Challenges Limiting Growth in Business Tax Return Electronic Filing* (May 2022).	2102 2301 3101
2023-30-005	*Fiscal Year 2023 Biannual Independent Assessment of Private Collection Agency Performance* (Dec. 2022).	1205
2023-15-010	*Actions Have Been Taken to Implement Taxpayer First Act Provisions Related to the IRS Independent Office of Appeals; However, Some Improvements Are Still Needed* (Feb. 2023).	1001
2023-45-014	*Additional Actions Are Needed to Improve and Secure the Income Verification Express Service Program* (Mar. 2023).	2201

Source: TIGTA's review of TIGTA and GAO reports.

Appendix IV

Abbreviations

BOD	Business Operating Division
CIO	Chief Information Officer
GAO	Government Accountability Office
IP PIN	Identity Protection Personal Identification Number
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ISAC	Information Sharing and Analysis Center
IT	Information Technology
IVES	Income Verification Express Service
LATIS	Legislative Analysis, Tracking, and Implementation System
LITC	Low Income Taxpayer Clinic
PCA	Private Collection Agency
SCP	Streamlined Critical Pay
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
TAC	Taxpayer Assistance Center
TFA	Taxpayer First Act
TIGTA	Treasury Inspector General for Tax Administration

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By Web:

www.tigta.gov

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 23291

Washington, D.C. 20026

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