TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Fiscal Year 2024 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers

September 24, 2024

Report Number: 2024-300-058

TIGTACommunications@tigta.treas.gov | www.tigta.gov

HIGHLIGHTS: Fiscal Year 2024 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers

Final Audit Report issued on September 24, 2024 **Report Number 2024-300-058**

Why TIGTA Did This Audit

TIGTA is required to annually report on the IRS's compliance with statutory provisions that restrict the direct contact of taxpayers who are represented.

For this year's review, TIGTA analyzed the extent to which private collection agency (PCA) employees complied with the direct contact provisions of Internal Revenue Code (I.R.C.) §§ 7521(b)(2) and (c) and the fair tax collection practices of I.R.C. § 6304(a)(2) during interactions with taxpayers or their representatives.

While TIGTA performs a biannual review of the PCAs, this is the first time the PCAs were reviewed specifically to determine if they followed the direct contact provisions and fair tax collection practices.

Impact on Tax Administration

If taxpayers' rights to representation are not adhered to by the IRS, or a party contracted to act on its behalf, they might not receive the benefits under the law and procedures to which they are entitled, and they may experience adverse outcomes.

What TIGTA Found

The IRS has processes for the oversight and disposition of taxpayer allegations of direct contact violations. IRS management generally relies on violations to be reported, and the IRS records the actions taken in a database. The PCAs record any instance of direct contact violations in a Corrective Action Report and provide this report monthly to the IRS.

The IRS provided instructions to the PCAs in the Policy and Procedures Guide. The Guide has processes for the oversight of fair tax collection practices and, in part, the direct contact provisions. The Guide does not provide instructions to PCA employees if, on a call, the taxpayer asks to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the IRS.

PCAs conduct monthly quality assurance reviews. However, there is no quality review attribute that addresses whether the PCA call representatives responded appropriately when an unrepresented taxpayer sought representation before the IRS.

TIGTA reviewed the incoming and outgoing call logs from all three PCAs for July 1, 2022, to June 30, 2023. Our review found that the IRS does not always submit timely power of attorney information to the PCAs. For the 74 taxpayers reviewed, three taxpayers had power of attorney information on file with the IRS that did not correspond with information provided in the PCAs call logs.

In addition, confusion may arise when taxpayer accounts assigned to a PCA are suspended awaiting the submission and processing of Form 2848, *Power of Attorney and Declaration of Representative*. Taxpayer accounts are suspended by the PCAs for 30 days to allow the form to be processed. However, seven PCA call representatives TIGTA spoke with stated they have encountered instances in which accounts had the suspension expire [redacted] The IRS stated that if taxpayers are alerted to a discrepancy with the submission of Form 2848, they should contact the IRS to help remedy the situation.

What TIGTA Recommended

TIGTA recommended that the Director, Collection, Small Business/Self Employed Division, should revise the Policy and Procedures Guide to: 1) completely address the direct contact provisions provided for in I.R.C. § 7521(b)(2), and 2) include quality review attributes and review procedures that specifically address when a taxpayer requests representation during a telephone call with a PCA call representative and when a known represented taxpayer was contacted. The IRS agreed with both recommendations. The IRS plans to revise the Policy and Procedures Guide and develop a quality attribute that captures the taxpayer's right to representation during a telephone call.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

September 24, 2024

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Danny R. Verneuille
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2024 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers (Audit No.: 2024300008)

This report presents the results of our review to determine whether the Internal Revenue Service is in compliance with legal guidelines addressing the direct contact of taxpayers and their representatives set forth in Internal Revenue Code (I.R.C.) §§ 7521(b)(2) and (c) and the fair tax collection practices set forth in I.R.C. § 6304(a)(2). This review is part of our Fiscal Year 2024 Annual Audit Plan and addresses the major management and performance challenge of *Taxpayer Service*.

Management's complete response to the draft report is included as Appendix II. If you have any questions, please contact me or Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).

Table of Contents

Background

Taxpayers have a right to representation in matters before the Internal Revenue Service (IRS).[1] The Internal Revenue Code (I.R.C.) provides taxpayers the right to representation during interviews (hereafter referred to as the direct contact provisions).[2] In addition, it protects a taxpayer's right to representation by prohibiting the IRS from contacting a taxpayer if the IRS knows the taxpayer is represented (hereafter referred to as fair tax collection practices (FTCP)).[3] Procedures in the Internal Revenue Manual provide that all of the following conditions must be met before directly contacting a represented taxpayer:

1. The taxpayer initiates the contact to resolve the issue on the account.
2. The taxpayer expresses a specific desire to resolve the issue without the involvement of their representative after the IRS employee has advised the taxpayer of the current representation.
3. The taxpayer's desire to have the IRS work directly with the taxpayer instead of their representative is properly documented in the case file.[4]

To designate a power of attorney (POA) authority to a representative, a taxpayer files Form 2848, *Power of Attorney and Declaration of Representative*, with the IRS.[5] Once processed, the IRS has five business days to record the representative's authorization in its Centralized Authorization File (CAF).[6] The CAF is a computerized system of records that stores authorization information for both the POAs and other tax information authorizations.

Determining whether the IRS is complying with the direct contact provisions and FTCP is limited given that the IRS does not have a way of systemically identifying employee violations. The IRS primarily depends on complaints from taxpayers and the POAs, as well as quality reviews of both employee and program performance.[7]

Private collection agency (PCA)

Signed into law on December 4, 2015, the Fixing America's Surface Transportation Act required the IRS to contract with the PCAs to collect overdue taxes on cases involving inactive tax receivables.[8] The law provides the same requirements of PCA employees as it does of IRS employees, which includes direct contact provisions and the FTCP. Before an account is assigned to a PCA, one of the following must be met:

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[1] I.R.C. § 7803(a)(3)(I).

[2] I.R.C. §§ 7521(b)(2) and (c).

[3] I.R.C. § 6304(a)(2).

[4] Internal Revenue Manual 5.1.23.6 (Oct. 18, 2023).

[5] See Appendix III for a glossary of terms.

[6] Policy and Procedures Guide Part I, Section 3.1.2.1 (5).

[7] The IRS refers to employee program reviews as the Employee Quality Review System, and overall program reviews are referred to as the National Quality Review System.

[8] Pub. L. No. 114-94, 129 Stat. 1312 (2015) and codified in I.R.C. §§ 6306 and 6307.

1. Receivables removed from active inventory for lack of resources.
2. Unable to locate the taxpayer.
3. More than two years have passed since assessment and the receivable has not been assigned for collection.
4. The receivable has been assigned for collection and more than a year has passed without interaction on the account.[9]

The Small Business/Self-Employed (SB/SE) Division's Collection function administers the Private Debt Collection Program. Because the PCAs will have accounts assigned to them with represented taxpayers, the IRS must provide the taxpayers' POA information to the PCAs. PCA employees do not have access to the taxpayer information in the CAF system. Each week the IRS's Private Debt Collection unit systemically evaluates PCA assigned inventory checking for CAF indicators and tax module CAF command codes to determine if an authorized POA is present. The IRS sends any identified POA information to the PCAs via a weekly file transfer. Upon receipt, the PCAs upload POA information to their respective information systems.

While the Treasury Inspector General for Tax Administration (TIGTA) performs a separate, biannual review on the PCAs, this is the first time we reviewed the PCAs for compliance with the direct contact provisions and the FTCP. During the audit period, July 1, 2022, to June 30, 2023, there were three PCAs contracted to provide debt collection.

The IRS Restructuring and Reform Act of 1998 added I.R.C. § 7803(d)(1)(A)(ii), which requires TIGTA to annually evaluate the IRS's compliance with the direct contact provisions.[10] We reviewed all three PCAs and the IRS's oversight of the PCAs concerning the direct contact provisions and the FTCP. This is TIGTA's 26th annual review of the direct contact provisions.[11]

Results of Review

The IRS Has Processes for the Oversight and Disposition of Taxpayer Allegations of Direct Contact Violations

The IRS documents if a taxpayer or representative files a complaint with the IRS, TIGTA, the Taxpayer Advocate Service, or a congressional Representative or Senator.[12] IRS managers can also identify potential direct contact violations during case reviews. The IRS reviews allegations of direct contact violations to determine if there was any employee misconduct. The IRS Labor and Employee Relations and Negotiations Division's Employee Conduct and Compliance Office oversees all complaint referrals, including those allegations not investigated by TIGTA, and

[9] I.R.C. § 6306(c)(2)(A).

[10] 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.).

[11] The prior reports are available on TIGTA's website (TIGTA.gov).

[12] The Taxpayer Advocate Service is an independent organization within the IRS and assists taxpayers in resolving tax problems with the IRS.

investigations that TIGTA forwards to the IRS. The complaint referrals are recorded on an e-Trak database.

Dispositions of the complaint referrals where IRS management acts (including any disciplinary actions for substantiated allegations) are entered into the Automated Labor and Employee Relations Tracking System. This system helps ensure consistency in recording employee misconduct and disciplinary actions.

TIGTA's Office of Investigations received four complaints from taxpayers and/or the POAs about potential direct contact violations of IRS employees from July 1, 2022, to June 30, 2023. TIGTA opened investigations on all four complaints and referred [redacted]

PCA Corrective Action Reports (CAR) reflect disciplinary actions to address incidents

Taxpayers and POAs primarily report complaints against PCA call representatives (hereafter referred to as call representatives) directly to the PCA. The PCAs use the CARs to document taxpayer and POA reported complaints of potential FTCP violations along with the disciplinary actions that were taken against the employees. The CAR identifies all PCA-substantiated willful and non-willful FTCP violations. We reviewed the CARs from Fiscal Year 2023 and incident reports[13] from Fiscal Years 2022 and 2023 and identified the following [redacted]

[redacted]

[redacted]

The PCAs submit a CAR monthly to the IRS that identifies all FTCP violations, such as contacting a represented taxpayer, substantiated by the PCA during that reporting period. The IRS performs a monthly review of the CARs to ensure consistency and that the PCAs' administrative actions were sufficient to address reported violations.

The CARs contain the administrative action taken for each violation, per the individual PCA penalty guide. Each PCA is responsible for establishing a penalty guide. Actions taken can be training/coaching, verbal warning, written warning, suspension without pay, or termination depending upon the nature of the violation. The penalty guides are submitted to the IRS annually for review.

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[13] The PCA also maintains an incident report including non-substantive and minor incidents and detailing any corrective or administrative actions taken by the PCA. The incident report includes any corrective actions, a summary of the event, and if the incident was reported to TIGTA.

The CAR metric for the FTCP's prohibition against directly contacting represented taxpayers applied to the PCAs is as follows:

> *6304(a)(2) FTCP: Attorney/POA Representation Communication with a consumer if the debt collector knows the consumer is represented by an attorney/POA with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer.*

TIGTA notification is not required for incidents of directly contacting represented taxpayers, but they must be included in a CAR. Any disciplinary actions taken on call representatives are not entered into the Automated Labor and Employee Relations Tracking System because it is for internal IRS employee labor relations issues.

The IRS Provided the Private Collection Agencies Processes Pertaining to Fair Tax Collection Practices, but Guidance on the Direct Contact Provisions Needs to Be Improved

The IRS established procedures for the PCAs to follow when they work on the assigned cases. The procedures are documented in the *Internal Revenue Service Private Collection Agency Policy and Procedures Guide* (PPG). Specifically, the PPG addresses:

- Contacting a taxpayer with a valid POA on file.
- Reporting incidents of violations.
- Completing corrective actions.
- Conducting quality reviews.

Call representatives must be courteous and respect taxpayers' rights provided in the Omnibus Taxpayer Bill of Rights.[14] The PPG contains the following guidance regarding contacting a taxpayer that is represented by a POA:

> *If there is a POA on file for a tax period, the PCA cannot contact the taxpayer directly. They must contact the POA. The POA may give permission to the PCA to speak with the taxpayer. Written notification from an authenticated POA is required before the PCA can contact the taxpayer directly.*[15]

The PPG also provides the PCAs guidance for unsuccessful calls to the POAs or when a POA does not return calls. In these instances, call representatives are allowed to directly contact taxpayers with a supervisor's approval. The call representative must document the unsuccessful call(s) to the POA and advise the taxpayer that the POA could not be reached. In these cases, call representatives should request updated POA contact information.[16]

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[14] Pub. L. No. 100-647, 102 Stat. 3730 (1988) (codified as amended in scattered sections of 5 and 26 U.S.C.).

[15] PPG Part II § 3.1 (6).

[16] PPG Part II § 3.1 (7).

I.R.C. § 6306(b) prohibits each person providing services under a qualified tax collection contract from committing any acts or omissions, which employees of the IRS are prohibited from committing in the performance of similar services.[17] These prohibitions include communicating at inconvenient times and places, contacting represented taxpayers (with certain exceptions), calling the taxpayer at work if the collector knows the taxpayer's employer prohibits such calls, and various other types of harassment and abuse. In addition, the law provides that the provisions of the Fair Debt Collection Practices Act shall apply to any qualified tax collection contract except to the extent superseded by FTCP provisions in I.R.C. § 6304.[18]

The PPG does not completely address all direct contact provisions

Although the IRS established procedures for the PCAs to follow, we determined that the PPG does not require that the PCAs report (in incident or CAR reports) certain direct contact violations, such as when a taxpayer is denied their request to obtain representation during a call with the call representative.

We also found that the PPG does not contain the complete direct contact provisions found in I.R.C. § 7521(b)(2) that IRS employees are required to follow. While the PPG contains instructions on obtaining a supervisor's approval to contact a taxpayer directly if the POA is unresponsive, there are no instructions on what to do if a taxpayer asks to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the IRS.

The direct contact provisions, enacted as part of the Taxpayer Bill of Rights, created safeguards to protect the rights of taxpayers as part of a tax examination or collection action. Specifically, employees are required to:

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

These provisions allow a taxpayer to state at any time during an interview that they would like to consult with any person who can represent the taxpayer before the IRS. If this happens, the IRS or the PCA must stop the interview. The Taxpayer Bill of Rights states "Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS."

As stated previously, each person providing services under a qualified tax collection contract may not commit any violations that employees of the IRS are prohibited from committing in the performance of similar services. If taxpayers' rights to representation are not adhered to by the IRS, or a party contracted to act on its behalf, they might not receive the benefits under the law

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[17] American Jobs Creation Act of 2004, Pub. L. No. 108–357, 118 Stat. 1418 (codified in scattered sections of 7, 15, 19, 26, 29, and 42 U.S.C.).

[18] I.R.C. § 6306(g). The Fair Debt Collection Practices Act prohibited various collection abuses and harassment in the private sector. Congress requires the IRS to comply with certain portions of the Fair Debt Collection Practices Act through the FTCP. Fair Debt Collection Practices Act, 15 U.S.C. §§ 1601 note, 1692-1692p (2018).

and procedures to which they are entitled, and they may experience adverse outcomes. To help prevent direct contact violations, the IRS should incorporate all direct contact provisions into the PPG.

Quality assurance reviews do not specifically test for some direct contact violations

In our Fiscal Year 2023 audit of direct contact violations, we found that the SB/SE Division Collection function had a "Taxpayer Rights" quality review attribute specifically addressing the "Right to representation not observed."[19] For the PCAs, the only quality attribute concerning taxpayers' right to representation is to determine whether the call representative researched, prior to making the call, POA information on file for the specific tax period assigned. This attribute addresses whether an important step was taken by the call representative to prevent a violation of the FTCP. However, we could not determine how effective it is in identifying violations of the FTCP, *i.e.*, instances of contacting known represented taxpayers.

According to the PPG, the PCAs are to perform monthly quality assurance reviews by sampling taxpayer calls when the correct party has been contacted. The calls are to last a minimum of five minutes for each employee and will be rated using the quality header files and quality attributes provided by the IRS in the PPG. While there is a quality attribute to address the prevention of FTCP violations, there is no attribute addressing the direct contact provisions when an unrepresented taxpayer may seek representation during a telephone call with a call representative.

Because the PCAs are held to the same standards as IRS employees, we believe PCA employees should be reviewed using the same quality review attributes. A violation may occur if a taxpayer states that they would like to obtain representation, but the call representative continues discussing the tax debt with the taxpayer. The IRS should add an attribute to the PPG to address when a taxpayer seeks representation during a telephone call with a call representative. If these attributes are added, then violations of the FTCP and direct contact provisions could be identified and addressed.

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

Recommendation 1: Revise the PPG to completely address the direct contact provisions provided for in I.R.C. § 7521(b)(2).

> **Management's Response:** IRS management agreed with this recommendation and plans to revise the PPG to include guidance for the PCAs to stop the interview whenever a taxpayer requests to consult with a representative or any person who is permitted to represent taxpayers before the IRS.

Recommendation 2: Revise the PPG to include quality review attributes and review procedures that specifically address when a taxpayer requests representation during a telephone call with a PCA call representative and when a known represented taxpayer was contacted.

> **Management's Response:** IRS management agreed with this recommendation. The IRS plans to develop a quality attribute that captures the taxpayer's right to representation

[19] TIGTA, Report No. 2023-30-051, *Fiscal Year 2023 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers* (Aug. 2023).

during a telephone call. The IRS also plans to revise the PPG to include quality review attributes and procedures to specifically address when a taxpayer requests representation during a telephone call with a PCA call representative and when a known represented taxpayer was contacted.

Private Collection Agencies Were Not Always Provided Timely Power of Attorney Information by the IRS

We compared the incoming and outgoing call logs for the three PCAs from July 1, 2022, to June 30, 2023, to the IRS Master File, and determined that 4,167 business taxpayers and 4,891 individual taxpayers had a POA on file, *i.e.*, a CAF code, with the IRS, but the PCA call logs provided to us did not include this information.[20] We randomly sampled 34 business and 40 individual taxpayers from two populations that included all three PCAs.[21]

We found that the IRS does not always submit timely POA information to the PCAs. For the 74 taxpayers reviewed, we determined that 71 taxpayers had POA information on file with the IRS and in the PCA call logs. However, the three remaining taxpayers had POA information on file with the IRS that did not correspond with POA information provided in the call logs. Specifically, we found:

[redacted]

[redacted]

- [redacted]

[20] The call logs contained the following fields: Taxpayer Identification Number, taxpayer name, Master File tax account code, tax period, length of call, date of call, time of call, employee who conducted the call, inbound/outbound call, and the CAF code. The POA indicator in the IRS Master File only provides when a taxpayer has a POA on file for any tax period not just those tax periods assigned to a PCA.

[21] Our sample size was determined by using a 95 percent confidence level, 5 percent error rate, and ±5 percent precision using two strata.

When compiling POA information for taxpayer cases assigned to the PCAs, the IRS uses a match of the Taxpayer Identification Numbers to CAF codes. Due to the large volume of cases assigned to the PCAs, this process is much more efficient than if the IRS manually researched POA information on all the taxpayers before assigning cases to the PCAs. In Fiscal Year 2022, there were over 1.6 million taxpayers assigned to one of the three PCAs. Accordingly, the IRS does not research POA information manually, like we did, for each taxpayer and then provide the information to the PCA. [redacted] Given that we [redacted] did not identify a systemic weakness, we are not making a recommendation. The IRS stated that if taxpayers are alerted to a discrepancy with the submission of Form 2848, they should contact the IRS to help remedy the situation.

Confusion may arise when taxpayer accounts assigned to a PCA are suspended awaiting the submission and processing of Form 2848

When a call representative contacts a taxpayer and the taxpayer states they would like representation, the call representative may place the account in suspense which stops the PCA from contacting the taxpayer until POA information is provided by the IRS. These suspensions can last up to 30 days.[22] We interviewed 32 PCA employees who contacted taxpayers, or managed those who did, during the period July 1, 2022, to June 30, 2023. During the interviews, some call representatives stated they have encountered timing issues between when a taxpayer states they will submit POA information to the IRS and when it is updated on the PCA's information system.

Seven of the call representatives we spoke with stated they have encountered instances in which accounts had the suspension expire [redacted] While the IRS and the PCAs may aim to complete this process during the time the case is in suspense, this may not always be the case.

We requested scripts and/or any suggested language the PCAs provide call representatives when speaking to taxpayers about submitting Form 2848. [redacted]

We understand that the amount of time for the IRS to receive and process a correct Form 2848 depends on the actions of the taxpayer. We believe that the call representative should stress to the taxpayer that the form should be mailed as soon as possible, that the 30-day time frame provided assumes the Form 2848 is mailed promptly, and if any issues arise with the processing of the form to contact the IRS directly to discuss.

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[22] PPG Part II § 5.3(3) directs the PCA to suspend activity for 30 days to allow the taxpayer to obtain a newly signed Form 2848. PPG Part II § 7.7(9) allows the PCA to suspend accounts for up to 60 days when deemed necessary.

Appendix I

Detailed Objective, Scope, and Methodology

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

- Determined what procedures and controls the IRS uses to ensure that employees are following the direct contact provisions and the FTCP.
- Determined what procedures and controls the PCAs and their employees use to ensure that they are following the direct contact provisions, the FTCP, and taxpayer rights to representation.
- Determined if the IRS provides training/learning opportunities that adequately address the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c) and the FTCP of I.R.C. § 6304(a)(2) and whether collection employees have a general understanding of these requirements.
- Interviewed 32 PCA employees from the 236 PCA employees who contacted taxpayers, or managed those who did, during the period July 1, 2022, to June 30, 2023. The employees reviewed were selected from lists provided by each PCA. We interviewed the employees and presented scenarios and questions pertaining to the direct contact provisions and the FTCP.
- Performed a data match of Taxpayer Identification Numbers from PCA call logs to the information in the CAF. We identified a population of 4,167 business and 4,891 individual taxpayers, respectively. We randomly sampled 74 taxpayers, which included 34 business and 40 individual taxpayers.[1] We reviewed the sample on the Integrated Data Retrieval System to determine if there was a POA on file within the CAF.

Performance of This Review

This review was performed with information obtained from the SB/SE Division's Collection function headquartered in Lanham, Maryland, during the period September 2023 through June 2024. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Phyllis Heald London, Acting Assistant Inspector General for Audit; Frank O'Connor, Acting Assistant Inspector General for Audit; Timothy

[1] A random sample is a probability sample, the results of which can be used to project to the population. We chose to conduct a random sample in case we decided to project the results of our sample. Our sample size was determined by using a 95 percent confidence level, 5 percent error rate, and ±5 percent precision using two strata.

Greiner, Director; Eugenia Smoak, Audit Manager; Tishana Lawrence, Lead Auditor; and Shalin Basnayake, Senior Auditor.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from PCA call logs history narratives. We evaluated the data by performing electronic testing of data elements. We determined that the data were sufficiently reliable for purposes of this report.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: IRS and PCA policies, procedures, and practices related to responding to allegations of employee violations of the direct contact provisions and the FTCP. We evaluated these controls by contacting management, reviewing the PPG provided to the PCAs by the IRS, reviewing incidents and the CARs, reviewing investigations from TIGTA's Performance and Results Information System identifying closed cases tracked on the IRS's e-Trak database, and interviewing PCA employees.

Appendix II

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

September 5, 2024

MEMORANDUM FOR DANNY R. VERNEUILLE
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Lia Colbert Amalia C. Colbert Digitally signed by Amalia C. Colbert Date: 2024.09.05 16:50:57 -04'00'
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2024 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers (Audit #2024300008)

Thank you for the opportunity to review and comment on the subject draft audit report, which analyzed the extent to which private collection agency (PCA) employees comply with the direct contact provisions of Internal Revenue Code (I.R.C.) § 7521 (b)(2) and (c) and the fair tax collection practices of I.R.C. § 6304(a)(2) during interactions with taxpayers or their representatives. We are committed to helping taxpayers meet their tax responsibilities while ensuring their rights are respected and protected.

We appreciate your recognition that we have processes for the oversight and disposition of taxpayer allegations of direct contact violations. We work hard to ensure both IRS and private collection agency (PCA) employees are aware of and protect taxpayer rights through guidance, training, and regular reviews of their work.

We agree that the Policy and Procedures Guide (PPG) should be reviewed to ensure it completely addresses the direct contact provisions. We will also clarify procedures and implement quality review attributes for taxpayers that request representation during an interview. We will continue to work to safeguard the integrity of the federal tax system.

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

Attachment

Attachment

The Director, Collection, SB/SE Division should:

RECOMMENDATION 1:
Revise the PPG to completely address the direct contact provisions provided for in I.R.C. § 7521(b)(2).

CORRECTIVE ACTION:
We agree. We will revise the PPG to include guidance for the PCAs to stop the interview whenever a taxpayer requests to consult with a representative or any person who is permitted to represent taxpayers before the IRS.

IMPLEMENTATION DATE:
November 15, 2024

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

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

RECOMMENDATION 2:
Revise the PPG to include quality review attributes and review procedures that specifically address when a taxpayer requests representation during a telephone call with a PCA call representative and when a known represented taxpayer was contacted.

CORRECTIVE ACTION:
We agree. We will develop a quality attribute that captures the taxpayer's right to representation during a phone call. We will revise the PPG to include quality review attributes and procedures to specifically address when a taxpayer requests representation during a phone call with a PCA call representative and when a known represented taxpayer was contacted.

IMPLEMENTATION DATE:
November 15, 2024

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

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

Appendix III

Glossary of Terms

Term	Definition
Automated Labor and Employee Relations Tracking System	An application used to track labor/employee relations case data. It was developed to ensure consistency in tracking labor and employee relations disciplinary actions.
Call Representative	PCA employees who speak with taxpayers to try to resolve unpaid tax debt.
Centralized Authorization File	A computerized system of records which houses authorization information from both POAs and tax information authorizations.
e-Trak	A web interface that easily allows business requirements to be translated into systemic configuration for case management and case tracking covering multiple IRS business functions.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Internal Revenue Code	The body of law that codifies all Federal tax laws. These laws constitute Title 26 of the United States Code, which is a consolidation and codification by subject matter of the general and permanent laws of the United States.
Internal Revenue Manual	The primary, official source of IRS instructions to staff related to the organization, administration, and operation of the IRS.
Performance and Results Information System	A TIGTA management information system that provides TIGTA with the ability to manage and account for complaints received and investigations initiated.
Power of Attorney	A taxpayer's written authorization for a designated individual, or individuals, to perform certain specified acts on the taxpayer's behalf.
Private Collection Agency	An agency that has entered a collections contract to assist the IRS in the collection of certain past due tax modules.

Appendix IV

Abbreviations

CAF	Centralized Authorization File
CAR	Corrective Action Report
FTCP	Fair Tax Collection Practices
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
PCA	Private Collection Agency
POA	Power of Attorney
PPG	Policy and Procedures Guide
SB/SE	Small Business/Self-Employed Division
TIGTA	Treasury Inspector General for Tax Administration

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

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

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