



*Fiscal Year 2014 Statutory Review of
Disclosure of Collection Activity With
Respect to Joint Returns*

July 18, 2014

Reference Number: 2014-30-046

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

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HIGHLIGHTS

FISCAL YEAR 2014 STATUTORY REVIEW OF DISCLOSURE OF COLLECTION ACTIVITY WITH RESPECT TO JOINT RETURNS

Highlights

Final Report issued on July 18, 2014

Highlights of Reference Number: 2014-30-046 to the Internal Revenue Service Commissioners for the Small Business/Self-Employed and Wage and Investment Divisions.

IMPACT ON TAXPAYERS

Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the IRS's efforts to collect delinquent taxes on their joint tax return liabilities. If the IRS does not provide employees sufficient guidance for handling those requests, taxpayer rights could potentially be violated.

WHY TIGTA DID THE AUDIT

This audit was initiated because the IRS Restructuring and Reform Act of 1998 added I.R.C. § 7803(d)(1)(B), which requires TIGTA to annually review and certify the IRS's compliance with I.R.C. § 6103(e)(8). The objective of this review was to determine whether the IRS is complying with the provisions of I.R.C. § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers.

WHAT TIGTA FOUND

IRS procedures provide employees with sufficient guidance for handling joint filer collection activity information requests. However, TIGTA could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written collection activity information requests from joint filers. IRS management information systems do not separately record or monitor joint filer requests, and there is no legal requirement for the IRS to do so. Further, TIGTA does not

recommend the creation of a separate tracking system.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report. IRS officials were provided an opportunity to review the draft report and did not provide any comments.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 18, 2014

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
COMMISSIONER, WAGE AND INVESTMENT DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2014 Statutory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit # 201430004)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) is complying with the provisions of Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. The Treasury Inspector General for Tax Administration is required, under I.R.C. § 7803(d)(1)(B), to annually evaluate the IRS's compliance with the joint filer provisions of the law. The audit is included in our Fiscal Year 2014 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Although we made no recommendations in this report, we provided IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments. Copies of this report are also being sent to the IRS managers affected by the report.

If you have any questions, please contact me or Bryce Kisler, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).



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Abbreviations

I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Taxpayer Bill of Rights 2¹ added Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8), which gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the Internal Revenue Service's (IRS) efforts to collect delinquent taxes on their joint tax return liabilities. I.R.C. § 6103(e)(8) requires the IRS to provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the Taxpayer Bill of Rights 2, the IRS issued procedures, which stated that if I.R.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon I.R.C. § 6103(e)(7).

The IRS Restructuring and Reform Act of 1998² added I.R.C. § 7803(d)(1)(B), which requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether the IRS is complying with the requirements of I.R.C. § 6103(e)(8).

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

A study conducted by the IRS concluded there was a low volume of joint filer requests submitted under I.R.C. § 6103(e)(8). An analysis of six former district offices³ over a six-month period in Calendar Year 2000 identified only five written joint filer requests. As a result of this study, management in the Small Business/Self-Employed and Wage and Investment Divisions decided not to develop a separate system for tracking joint filer information requests.

The IRS informs taxpayers of their rights to collection information on jointly filed tax returns, related to I.R.C. § 6103(e)(8), through a publication by the IRS Chief Counsel's office⁴ which explains what information the IRS can and cannot disclose under this law.

This review was performed with information obtained from the office of the IRS Commissioner, the National Taxpayer Advocate, and the Privacy, Governmental Liaison, and Disclosure office located in Washington, D.C.; the Small Business/Self-Employed Division Headquarters located in New Carrollton, Maryland; and the Wage and Investment Division Headquarters located in Atlanta, Georgia, during the period April through May 2014. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards

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

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

³ The IRS now calls these types of locations area offices. An area office is a geographic organizational level used by IRS business units and offices to help their specific types of taxpayers understand and comply with tax laws and issues.

⁴ *Disclosure and Privacy Law Reference Guide* (Publication 4639), p. 74-76 (Oct. 2012).



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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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

The Internal Revenue Manual Provides Employees Sufficient Guidance for Handling Joint Filer Collection Activity Information Requests

The provision of the Taxpayer Bill of Rights 2 related to joint filers was enacted out of congressional concern about the treatment of separated or divorced taxpayers. When introducing the Bill, Representative Nancy L. Johnson (R-Connecticut) stated:

The subcommittee learned of many instances where divorced taxpayers who had previously signed a joint tax return during their marriage were treated harshly when the IRS later disputed the accuracy of their joint tax return. In many cases the IRS tried to collect the entire amount of taxes from the wife, even though the omitted income or erroneous deductions which caused the deficiency were attributable solely to her former husband. All too often, the woman, being pursued for payment of taxes due, was not aware that a tax return filed during the marriage had been audited or that a deficiency had been imposed on the return.

To address this concern, the IRS revised its Internal Revenue Manual⁵ to include procedures for responding to taxpayers who file jointly and submit written requests for information on IRS collection activity. The Internal Revenue Manual instructs employees to disclose whether any attempts have been made to collect the tax due from either of the joint filers, the current collection status, and the amount collected to date.

The Internal Revenue Manual⁶ also allows employees to provide both oral and written responses to taxpayers. IRS procedures require employees to respond in writing only when taxpayers specifically cite I.R.C. § 6103(e)(8) as their authority for making written requests for collection information on joint return liabilities. If the taxpayer's written request does not specifically cite I.R.C. § 6103(e)(8), the IRS has directed employees to provide oral responses when practicable based upon I.R.C. § 6103(e)(7). The IRS believes that oral responses provide good customer service to taxpayers because the taxpayers get an immediate answer. TIGTA believes these procedures provide IRS employees sufficient guidance for handling these requests in accordance with the law.

⁵ Internal Revenue Manual 11.3.2.4.1 (Aug. 29, 2008).

⁶ Internal Revenue Manual 5.1.22.3 (Oct. 21, 2011).



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Compliance With Statutory Requirements for the Disclosure of Collection Activity With Respect to Jointly Filed Tax Returns Cannot Be Determined

IRS management information systems do not record or monitor joint filer requests for information on collection activities. As such, TIGTA could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written requests from joint filers because of our inability to identify any joint filer requests received for information on collection activities. During this review, management from the Small Business/Self-Employed and Wage and Investment Divisions commented that the IRS's position has not changed from last year, and that the IRS does not plan to implement a system to identify or track joint filer requests for collection activity. In addition, there is no legal requirement for the IRS to record or monitor cases involving these requests.

TIGTA does not recommend the creation of a separate tracking system and is making no recommendations in this report. This is the sixteenth year in which we have reported our inability to provide an opinion on the IRS's compliance with the provisions of I.R.C. § 6103(e)(8).⁷

⁷ See Appendix IV for a list of the prior audit reports related to this statutory review.



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Appendix I

Detailed Objective, Scope, and Methodology

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

- I. Interviewed IRS management personnel in the Small Business/Self-Employed and Wage and Investment Divisions to determine if an IRS system or process has been implemented since our last review that tracks joint filer requests and the IRS's responses for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- II. Interviewed various IRS and TIGTA offices responsible for the Taxpayer Advocate Management Information System,¹ the Entellitrak Communications and Correspondence System,² the Automated Freedom of Information Act System,³ and the Performance and Results Information System⁴ to determine if any systems or processes have been modified since our last review to track taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).
- III. Obtained information on the actions taken by the IRS in response to I.R.C. § 6103(e)(8) to determine the impact of this code section on IRS programs.
 - A. Reviewed all prior TIGTA reports for the Statutory Joint Filer reviews and identified the audit results, recommendations, and any corrective actions taken by the IRS.⁵
 - B. Reviewed historic and current Internal Revenue Manual sections to identify any updates made in response to I.R.C. § 6103(e)(8).
 - C. Reviewed the IRWeb (the IRS intranet site) to identify the impact I.R.C. § 6103(e)(8) has had recently on any IRS programs.

¹ The Taxpayer Advocate Management Information System is an electronic database and case inventory control system used by Taxpayer Advocate Service employees.

² The Entellitrak Communication and Correspondence System is an application used by the IRS to control and track information and correspondence.

³ The Automated Freedom of Information Act System is an application system used by the IRS for processing disclosure casework under I.R.C. § 6103, the Freedom of Information Act, and the Privacy Act.

⁴ The Performance and Results Information System is a management information system that provides TIGTA with the ability to manage complaints received and investigations initiated.

⁵ See Appendix IV for a list of the prior audit reports related to this statutory review.



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- D. Reviewed IRS.gov (the public IRS Internet site) and related IRS publications to identify how the IRS currently informs taxpayers of their rights to collection information on jointly filed tax returns under I.R.C. § 6103(e)(8).

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the Small Business/Self-Employed Division Collection function, the Wage and Investment Division Filing and Payment Compliance function, and the Communications, Liaison, and Disclosure function's policies, procedures, and practices for responding to taxpayer requests relating to the requirements of I.R.C. § 6103(e)(8). Our assessment did not evaluate the controls for ensuring the IRS's accuracy in responding to these requests because IRS management information systems do not record or monitor joint filer requests for information on collection activities.



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Appendix II

Major Contributors to This Report

Bryce Kisler, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)

Carl L. Aley, Director

Phyllis Heald London, Audit Manager

Autumn Gill, Lead Auditor

Meaghan Tocco, Senior Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner - Attn: Chief of Staff C
Deputy Commissioner, Operations Support OS
Deputy Commissioner, Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Deputy Commissioner, Wage and Investment Division SE:W
Director, Privacy, Governmental Liaison, and Disclosure OS:P
Director, Communications, Liaison and Disclosure, Small Business/Self-Employed Division
SE:S:CSO
Director, Compliance, Wage and Investment Division SE:W:CP
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC
Director, Strategy and Finance, Wage and Investment Division SE:W:S
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaisons:
 Commissioner, Small Business/Self-Employed Division SE:S
 Commissioner, Wage and Investment Division SE:W



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Appendix IV

*Previous Audit Reports Related to
This Statutory Review*

TIGTA, Ref. No. 1999-10-077, *The Internal Revenue Service's Procedures for Responding to Written Requests for Collection Activity From Joint Return Filers Vary From Statutory Requirements* (Sept. 1999).

TIGTA, Ref. No. 2000-10-148, *Letter Report: Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined* (Sept. 2000).

TIGTA, Ref. No. 2001-10-126, *Letter Report: Full Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined (Fiscal Year 2001)* (Aug. 2001).

TIGTA, Ref. No. 2002-40-159, *Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined* (Aug. 2002).

TIGTA, Ref. No. 2003-40-110, *Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (May 2003).

TIGTA, Ref. No. 2004-40-058, *Fiscal Year 2004 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Mar. 2004).

TIGTA, Ref. No. 2005-40-041, *Fiscal Year 2005 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Feb. 2005).

TIGTA, Ref. No. 2006-40-135, *Fiscal Year 2006 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Aug. 2006).

TIGTA, Ref. No. 2007-40-119, *Fiscal Year 2007 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2007).

TIGTA, Ref. No. 2008-40-099, *Fiscal Year 2008 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Mar. 2008).

TIGTA, Ref. No. 2009-30-046, *Fiscal Year 2009 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Mar. 2009).

TIGTA, Ref. No. 2010-30-026, *Fiscal Year 2010 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Feb. 2010).

TIGTA, Ref. No. 2011-30-077, *Fiscal Year 2011 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2011).



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TIGTA, Ref. No. 2012-30-084, *Fiscal Year 2012 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2012).

TIGTA, Ref. No. 2013-30-079, *Fiscal Year 2013 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Jul. 2013).