



*Injured Spouse Cases Were Not Always
Timely Resolved, Resulting in the
Unnecessary Payment of Interest*

May 19, 2016

Reference Number: 2016-40-042

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.

Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS

INJURED SPOUSE CASES WERE NOT ALWAYS TIMELY RESOLVED, RESULTING IN THE UNNECESSARY PAYMENT OF INTEREST

Highlights

Final Report issued on May 19, 2016

Highlights of Reference Number: 2016-40-042 to the Internal Revenue Service Commissioner for the Wage and Investment Division.

IMPACT ON TAXPAYERS

The IRS is required by law to apply a taxpayer's tax refund to any past-due Federal tax debt, child or spousal support debt, Federal agency nontax debt (such as a student loan), or State income tax obligation before issuing the refund. If a taxpayer files a joint tax return resulting in a refund, that refund may be used to pay a past-due amount of either spouse's debts.

However, the IRS can refund all or a portion of the refund if the taxpayer qualifies as an injured spouse. An injured spouse is a taxpayer who files a joint tax return for which all or part of his or her share of the tax refund was, or is expected to be, applied against the other spouse's past-due debt. The IRS closed a total of 730,956 injured spouse cases in Calendar Years 2014 and 2015.

WHY TIGTA DID THE AUDIT

This audit was initiated to evaluate the IRS's Injured Spouse Program. The overall objective was to determine whether taxpayers' requests for relief under the Injured Spouse Program were processed accurately and timely.

WHAT TIGTA FOUND

TIGTA's review of a statistically valid sample of 100 injured spouse cases from the universe of 530,581 resolved from January 1, 2014, to May 28, 2015, identified that 91 (91 percent) of the cases were processed accurately. However, 30 (30 percent) cases were not resolved within the required 45 days, which resulted in the unnecessary payment of interest. The IRS took an average of 102 days from receipt to

resolution of the cases, and as a result of not timely working the cases, paid interest in the amount of \$506. Based on these results, TIGTA estimates that the IRS may have paid interest in the amount of \$2.7 million for 159,174 of the 530,581 injured spouse cases as a result of not timely resolving the cases.

TIGTA also found that the IRS did not update Form 8379, *Injured Spouse Allocation*, and its instructions to address a prior TIGTA recommendation for the IRS to ensure that guidance provided to taxpayers is current, complete, and accurate. For example, instructions still do not inform taxpayers that a claim can be filed for prior years or that there is a six-year statute of limitations on filing a claim for nontax debt and a three-year statute of limitations for tax debt.

The IRS did address a prior recommendation to identify and revise all IRS documents containing injured spouse information to refer taxpayers to Form 8379 and its instructions for guidance.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS ensure that injured spouse cases are assigned to customer service representatives who have sufficient training, knowledge, and experience to resolve the cases. In addition, TIGTA recommended that the IRS ensure that taxpayers are informed of the current statute of limitations the IRS applies when processing injured spouse cases and prioritize the work needed to update Form 8379 and its instructions.

The IRS agreed with all three of TIGTA's recommendations. The IRS stated it plans to ensure that all customer service representatives processing injured spouse allocations have sufficient training to resolve the cases. In addition, the IRS plans to update its internal guidance and instructions provided to the taxpayers to reflect the current statute of limitations the IRS applies when processing injured spouse cases and take immediate action to update the Form 8379 and instructions upon receipt of clarifying guidance from its Office of Chief Counsel.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 19, 2016

MEMORANDUM FOR COMMISSIONER, WAGE AND INVESTMENT DIVISION

FROM:

Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest (Audit # 201540014)

This report presents the results of our review to determine whether taxpayers' requests for relief under the Injured Spouse Program were processed accurately and timely. This audit was included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Providing Quality Taxpayer Service Operations.

Management's complete response to the draft report is included in Appendix V.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services).



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*Injured Spouse Cases Were Not Always Timely
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Abbreviations

AAL	Automated Age Listing
CIS	Correspondence Imaging System
CSR	Customer Service Representative
IRS	Internal Revenue Service
JAMES	Joint Audit Management Enterprise System
TIGTA	Treasury Inspector General for Tax Administration



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

Background

Internal Revenue Code Section 6402¹ requires the Internal Revenue Service (IRS) to apply a taxpayer's tax refund to any past-due Federal tax debt, child or spousal support debt, Federal agency nontax debt (such as a student loan), or State income tax obligation before issuing a refund. Applying a tax refund to a past-due debt is referred to as a refund offset. If a taxpayer files a joint tax return resulting in a refund, that refund may be used to pay the past-due amounts of either spouse's debts. However, the IRS can refund all or a portion of a refund if the taxpayer qualifies as an injured spouse. An injured spouse is a taxpayer who files a joint tax return for which all or part of his or her share of the tax refund was, or is expected to be, applied against the other spouse's past-due debt. A taxpayer qualifies as an injured spouse if he or she is not required to pay the past-due amount and meets any of the following criteria:

- The injured spouse made and reported tax payments (*e.g.*, Federal income tax withholdings from his or her wages or estimated tax payments).
- The injured spouse had earned income (*e.g.*, wages, salaries, or self-employment income) and claimed the earned income credit or the additional child tax credit.
- The injured spouse claimed a refundable tax credit, such as the premium tax credit or the refundable credit for prior year minimum tax.

If a taxpayer believes he or she qualifies as an injured spouse, he or she should file a Form 8379, *Injured Spouse Allocation*, with the IRS to get back his or her share of a refund. The IRS instructs a taxpayer to attach a Form 8379 to his or her original tax return either when submitting a paper tax return or when filing electronically. If a Form 8379 was not filed with the original tax return, the IRS instructs a taxpayer to submit a paper Form 8379 to any one of 10 IRS campuses² based on where the taxpayer filed the original return. Figure 1 shows the injured spouse cases the IRS received and closed in Calendar Years 2014 and 2015.

¹ I.R.C. § 6402.

² Campuses are the data processing arm of the IRS that process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts. The campuses are located in Fresno, California; Atlanta, Georgia; Andover, Massachusetts; Kansas City, Missouri; Brookhaven, New York; Cincinnati, Ohio; Philadelphia, Pennsylvania; Memphis, Tennessee; Austin, Texas; and Ogden, Utah.



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Figure 1: Total Injured Spouse Cases Received and Closed in Calendar Years 2014 and 2015

Calendar Year	Cases Received	Cases Closed
2014	367,182	363,651
2015	363,711	367,305
Totals	730,893	730,956

Source: IRS Work Performance and Review System.

Processing injured spouse cases

Once an injured spouse case is received, a customer service representative (CSR) in the Wage and Investment Division's Accounts Management function must review the Form 8379 for completeness to determine whether the case can be processed. Reasons why a case cannot be processed include:

- The original tax return was not filed with a filing status of married filing jointly.
- The injured spouse case was not received within the allowable time frame.
- Both spouses are liable for a past-due Federal tax debt.
- The injured spouse has no tax payments or refundable credits that would cause a refund.
- The taxpayer intended to claim innocent spouse relief.³
- The injured spouse is not entitled to a refund based on community property laws.

For cases that cannot be processed, the taxpayer is sent a Letter 916C, *Claim Incomplete for Processing; No Consideration*, explaining why the injured spouse case is not being considered for processing. For cases that can be processed, the CSR:

- Verifies if the taxpayer lives in a community property State.⁴ If the injured spouse lived in a community property State and all items on the return are community property, each spouse is entitled to half of the refund.
- Researches the type(s) of debts owed by the non-injured spouse to determine whether the injured spouse is entitled to a refund.
- Determines whether income, deductions, personal exemptions, credits, and payments shown on the Form 8379 are allocated to the spouse to whom they belong and that all

³ Innocent spouse relief could relieve a spouse (or former spouse) from paying tax, interest, and penalties on a joint tax account if his or her spouse (or former spouse) improperly reported items or omitted items on the tax return.

⁴ Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.



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income shown on the joint return has been properly allocated on the Form 8379. The allocated items are verified with Form(s) W-2, *Wage and Tax Statement*, and research of the individuals tax account(s).

Computation of injured spouse income, deductions, and exemption allocations

When an injured spouse case is processed, the income, deductions, and exemptions are split based either on the allocations provided by the taxpayer on the Form 8379 or as reported on the original tax return to determine the taxable income for each spouse. Figure 2 shows the items that are included on Form 8379 for allocation.

Figure 2: Form 8379 Allocations of Income, Deductions, and Exemptions

Form 8379 (Rev. 2-2015)		Page 2		
Part III Allocation Between Spouses of Items on the Joint Tax Return (See the separate Form 8379 instructions for Part III.)				
Allocated Items (Column (a) must equal columns (b) + (c))	(a) Amount shown on joint return	(b) Allocated to injured spouse	(c) Allocated to other spouse	
13 Income: a. Income reported on Form(s) W-2				
b. All other income				
14 Adjustments to income				
15 Standard deduction or Itemized deductions				
16 Number of exemptions				
17 Credits (do not include any earned income credit)				
18 Other taxes				
19 Federal income tax withheld				
20 Payments				

Source: Form 8379 (Feb. 2015).

The amount of joint income tax owed by each spouse is allocated to the spouse at the rate it would have been reported if it were calculated at the married filing separately tax rate. After the amount of tax liability is determined for each spouse, the credits (*e.g.*, withholding, estimated tax, and earned income credits) are allocated to each spouse's tax liability to determine his or her share of the refund. An injured spouse cannot be refunded more than the joint refund.

Injured spouse case processing time frames

If the taxpayer provides Form 8379 with his or her originally filed tax return, the IRS must process the injured spouse case within 45 days to avoid paying interest to the taxpayer. The 45 days is measured from the later of:

- The due date of the return (determined without regard to any extension of time for filing the return).



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- The date the tax return was received (used when the return is filed after the return due date, determined without regard to any extension of time for filing the return).
- The date the tax return that could be processed was received (date the tax return was received in a complete and processable form).

If the IRS receives a Form 8379 for a previously filed tax return, it must pay interest from the due date of the return, or from the later of the three previously discussed dates if the return was not filed by the due date, to the case resolution date. IRS officials stated that the 45-day time frame for employees to work the case is not a determining factor for whether interest must be paid on a Form 8379 received for a previously filed tax return. However, the longer the IRS takes to resolve the Form 8379 after receipt, the more interest the IRS must pay the taxpayer.

Injured Spouse Program performance reviews

The IRS uses two review systems to evaluate the Injured Spouse Program:

- **Embedded Quality Review System.** This system is used to evaluate CSR performance in accurately and timely working injured spouse cases. Each month, team managers are required to conduct a minimum of two Embedded Quality Reviews for each employee. Embedded Quality Review System results are recorded to a standardized data repository with trend analysis and reporting capabilities. The Embedded Quality Review System found an overall accuracy rate of 91 percent for all injured spouse cases reviewed for Calendar Year 2014.
- **National Quality Review System.** This system monitors organizational performance, and the review covers an entire program, such as the Injured Spouse Program, measuring the quality of service provided to all injured spouse case customers. The National Quality Review System reported a 90 percent overall accuracy rate for the Injured Spouse Program for Calendar Year 2014.

This review was performed at the Accounts Management function's offices in Andover, Massachusetts, and Memphis, Tennessee, during the period April 2015 through January 2016. 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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

Results of Review

Most Injured Spouse Cases Were Accurately Processed

Our review of a statistically valid sample⁵ of 100 injured spouse cases resolved by the IRS between January 1, 2014, and May 28, 2015, identified that 91 (91 percent) of the cases were accurately processed. In four of the nine cases with errors, the taxpayers contributed to the errors by erroneously completing the Form 8379. The remaining five cases involved CSR errors resulting from them not following internal guidelines when reviewing the cases. ***1***
*****1*****
*****1*****
*****1*****. It should be noted that our error rate is similar to the error rates calculated via the National Quality Review System and the Embedded Quality Review System.

However, additional actions are needed to ensure that injured spouse cases are timely processed and to ensure that corrective actions are taken to address a prior recommendation⁶ relating to information necessary to ensure that taxpayers can easily and correctly comply with injured spouse claim requirements not being included in Forms 8379.

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Our analysis of the 100 injured spouse cases identified that 30 (30 percent) cases were not resolved within the required 45 days. The IRS took an average of 102 days from receipt of the case to issue a refund to the taxpayer. The number of days for case resolution ranged from 45 to 417 days for these 30 cases. As a result, the IRS paid interest in the amount of \$506. Based on the results of our sample, we estimate that the IRS may have paid interest in the amount of \$2.7 million⁷ for 159,174⁸ of the 530,581 injured spouse cases resolved from January 1, 2014, to May 28, 2015, as a result of not timely resolving the cases. Figure 3 shows the number of days it

⁵ To select our statistically valid sample, we used an expected error rate of 7 percent, a precision rate of ± 5 percent, and a confidence interval of 95 percent.

⁶ Treasury Inspector General for Tax Administration, Ref. No. 2005-40-001, *Injured Spouse Guidance Is Not Consistent* (Oct. 2004).

⁷ Our projection, based on a 95 percent confidence interval, is that the IRS paid between \$1.9 million and \$3.5 million in interest as a result of not timely resolving cases.

⁸ Our projection, based on a 95 percent confidence interval, is that the IRS paid avoidable interest on 111,284 to 207,065 cases as a result of untimely case resolution.



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took the IRS to issue the injured spouse’s refund⁹ for the 30 untimely resolved cases that we evaluated.

Figure 3: Number of Days to Process the 30 Injured Spouse Cases That Were Not Timely Resolved

Days to Resolve Injured Spouse Cases	Cases
45–60	7
61–80	6
81–100	9
101–150	**1**
Over 400	**1**
Total	30

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of 30 injured spouse cases that were not timely resolved.

Accounts Management officials indicated that the cases we identified were not worked timely as a result of delays caused by case reassignments, the processing of paper tax returns, and CSR errors. However, our survey of two inventory control managers, seven CSR managers, and 13 CSRs¹⁰ at the Memphis and Andover campuses identified additional factors, not raised by management, as to why cases in general are not worked timely. Reasons these individuals cited for not processing cases timely included: 1) cases are already aged when they are assigned to a CSR for resolution; 2) injured spouse cases are not worked as a priority despite the IRS identifying the Injured Spouse Program as a priority; and 3) cases are assigned to new and seasonal employees¹¹ who have not been adequately trained to work injured spouse cases.

Internal guidelines require managers to review each of their CSRs’ Automated Age Listings¹² (AAL) each week and annotate the cases needing immediate attention. The annotated AALs are

⁹ ***** I *****
***** I *****

¹⁰ We interviewed a judgmental sample of CSRs and CSR managers from the Andover and Memphis campuses because these campuses had the highest average case resolution days. A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

¹¹ An appointment of an employee to a specified season (time frame) to work based on workload and demands of the employer.

¹² The AAL is a report generated for each CSR that lists cases in inventory that need to be worked, particularly those that are over-aged. This report can be sorted by case type or number of days in inventory.



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required to be provided to each CSR by the close of business on Monday of each week. CSRs are required to annotate the actions they took on each case and return the AAL to their manager for review by the close of business on Friday of the same week.

As we recently reported¹³ in a separate review of IRS processes for timely resolving taxpayer correspondence, some managers continue to not follow the requirement to use AALs to monitor and reduce over-aged inventory. Our analysis in this audit identified the same condition for injured spouse cases. For example, our analysis of four consecutive weeks of AALs for the Andover, Austin, Brookhaven, and Memphis Campuses identified that many injured spouse cases listed as over-aged on the first week AAL remained unresolved on the fourth week AAL. The percentage of over-aged cases remaining unworked from the first week AAL to the fourth week AAL ranged from 28 to 67 percent. Figure 4 shows the percentage of cases included on the first week AAL that were not closed and were therefore still reflected on the fourth week AAL.

Figure 4: Analysis of Over-Aged Injured Spouse Cases Listed on First Week AAL Still Listed As Unresolved on Fourth Week AAL

Campus	Over-Aged Cases Listed in Week Four AAL	Over-Aged Cases in Inventory for All Four Weeks	Percent of Over-Aged Cases in Inventory for All Four Weeks
Andover	7,392	4,957	67%
Austin	1,905	741	39%
Brookhaven	4,579	1,287	28%
Memphis	7,543	2,301	31%
Total	21,419	9,286	43%

Source: TIGTA Analysis of selected AALs.

Our analysis of AALs at four campuses also supports CSRs' statements that injured spouse cases are often assigned to seasonal CSRs. For example, our analysis identified that over-aged cases assigned to the same seasonal CSR for four consecutive weeks ranged from 4 to 43 percent of all over-aged cases still listed on the fourth week AAL. Figure 5 shows the number of cases assigned to seasonal CSRs that were reported on AALs for four consecutive weeks.

¹³ TIGTA, Ref. No. 2016-40-023, *Continued Inconsistent Use of Over-Age Correspondence Lists Contributes to Taxpayer Burden and Unnecessary Interest Payments* (Feb. 2016).



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Figure 5: Over-Aged Injured Spouse Cases Assigned to Seasonal CSRs Still Listed on Fourth Week AAL

Campus	Over-Aged Cases in Inventory for All Four Weeks	Cases Assigned to a Seasonal CSR	Percent Assigned to a Seasonal CSR
Andover	4,957	182	4%
Austin	741	322	43%
Brookhaven	1,287	211	16%
Memphis	2,301	688	30%
Total	9,286	1,403	15%

Source: TIGTA analysis of selected AALs.

We included the following recommendations as part of our prior review¹⁴ assessing IRS processes for timely resolving taxpayer correspondence:

- Ensure that managers are providing, by the close of business each Monday, CSRs with annotated AALs identifying cases that need immediate attention.
- Ensure that CSRs return the annotated copy of the AAL received from their manager, as required, by the close of business each Friday detailing actions they took on each of the cases the manager identified as needing immediate attention.

As such, we have not included these recommendations in this report.

Recommendation

Recommendation 1: The Commissioner, Wage and Investment Division, should ensure that injured spouse cases are assigned to CSRs who have sufficient training, knowledge, and experience to resolve the cases.

Management's Response: The IRS agreed with this recommendation. The IRS will ensure that CSRs processing injured spouse allocations have sufficient training to resolve the cases.

¹⁴ TIGTA, Ref. No. 2016-40-023, *Continued Inconsistent Use of Over-Age Correspondence Lists Contributes to Taxpayer Burden and Unnecessary Interest Payments* (Feb. 2016).



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The Internal Revenue Service Did Not Update Injured Spouse Form 8379 and Its Instructions to Address a Prior Recommendation

The IRS did not complete all corrective actions cited in response to a recommendation that we included in an October 2004 report.¹⁵ We reported that the IRS did not provide taxpayers with consistent information necessary to ensure that they can easily and correctly comply with injured spouse claim requirements. For example, we reported that Form 8379 instructions did not inform taxpayers that a claim can be filed for prior years or that there is a six-year statute of limitations on filing a claim for nontax debt and a three-year statute of limitations for tax debt. We recommended that the IRS review the instructions for Form 8379 to ensure that guidance is complete. The IRS responded that it would update and enhance the instructions for Form 8379 to provide comprehensive information on injured spouses.

Our current review of Form 8379 and its instructions for Tax Year 2015 found that the instructions were not revised to provide the missing information. In addition, our review of the Joint Audit Management Enterprise System (JAMES) report¹⁶ identified a February 2006, IRS entry stating, “*This revision does not include the suggested language regarding the statutory period for filing Forms 8379 as recommended, because this issue is still under review.*” Despite this entry stating that the corrective action is still under review, the IRS closed the corrective action in the JAMES in March 2006. Accounts Management officials stated that they did not know why the corrective action in the JAMES was closed.

Accounts Management officials stated that the reason Form 8379 instructions have not been updated is because they received unclear guidance from the IRS Chief Counsel’s office in January and June 2005 on how to update Form 8379 and its instructions. The officials stated that this lack of clear legal guidance is what caused the delay in including this information on the form and its instructions. Despite its receipt of unclear guidance, Accounts Management officials did not follow up with the Chief Counsel’s office until November 2012, seven years after it first received the unclear guidance. Chief Counsel officials informed the Accounts Management function that they have not finalized their opinion regarding the statute of limitations because of a lack of clear guidance in the Internal Revenue Code about injured spouse relief and limitation periods. Chief Counsel officials also stated that they have been further delayed because they need to coordinate their response with several functions within the Chief Counsel’s office.

Despite the lack of clarity of the statute of limitations in the Internal Revenue Code, the IRS should inform taxpayers of the statute of limitation periods that it currently applies when processing an injured spouse case. Specifically, internal guidelines inform CSRs that injured

¹⁵ TIGTA, Ref. No. 2005-40-001, *Injured Spouse Guidance Is Not Consistent* (Oct. 2004).

¹⁶ The JAMES is the Department of the Treasury’s web-based audit recommendation and corrective action tracking system.



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spouse claims can be filed for six years if a refund was offset for a nontax debt and three years if a refund was offset for a tax debt.

The IRS did address a prior recommendation to refer taxpayers for guidance to Form 8379 and its instructions

Our review of Publication 17, *Your Federal Income Tax (For Individuals)*; Publication 504, *Divorced or Separated Individuals*; and Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, found that these publications were revised to refer taxpayers to Form 8379 and its instructions for additional information about injured spouse allocations. We also determined that Publication 971, *Innocent Spouse Relief*; Publication 1819, *Divorce and Non-Custodial, Separated, or Never Married Parents*; and the instructions for Form 1040, *U.S. Individual Income Tax Return*, were also revised to direct taxpayers to Form 8379 for additional information about injured spouse allocations.

Recommendations

The Commissioner, Wage and Investment Division, should:

Recommendation 2: Ensure that taxpayers are informed of the current statute of limitations that the IRS applies when processing injured spouse cases in which a refund is offset for a Federal tax debt and non-tax debts.

Management's Response: The IRS agreed with this recommendation. The IRS will ensure that taxpayers are informed of the period for submitting a Form 8379, *Injured Spouse Allocation*, which the IRS currently applies when processing injured spouse cases. Until receipt of clarifying guidance from Chief Counsel regarding the time period for submitting an allocation related to a Federal tax debt, the IRS will update the applicable Internal Revenue Manual to reflect the opinion provided in the Chief Counsel memorandum dated September 23, 2013. The information is currently available on IRS.gov and the IRS will further ensure that taxpayers are informed of this limitation by adding a lead-in sheet to the Form 8379 and instructions that clearly outline the period for submitting an injured spouse claim.

Recommendation 3: After receiving legal guidance from Chief Counsel's office, prioritize the work needed to update Form 8379 and its instructions to inform taxpayers of the statute of limitations for filing Forms 8379 when refunds are offset to nontax and tax debt.

Management's Response: The IRS agreed with this recommendation. Upon receipt of clarifying guidance from Chief Counsel, the IRS will take immediate action to ensure that the Form 8379 and its instructions are updated to inform the taxpayer of the period for submitting an injured spouse allocation.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether taxpayers' requests for relief under the Injured Spouse Program were processed accurately and timely. To accomplish this objective, we:

- I. Determined whether taxpayers' requests for relief under the Injured Spouse Program were processed accurately.
 - A. Evaluated the IRS procedures to process injured spouse cases and determined whether they adequately ensure that injured spouse cases are processed correctly.
 1. Reviewed the Internal Revenue Manual to identify the procedures used by CSRs to process injured spouse cases.
 2. Interviewed CSRs and managers to identify the procedures used to process injured spouse cases.
 - B. Evaluated IRS processes to ensure that injured spouse cases were processed accurately.
 1. Reviewed injured spouse cases closed January 1, 2014, through May 28, 2015, to determine whether the cases were processed accurately. We selected a statistically valid sample of 100 of the 530,581 injured spouse cases closed January 1, 2014, through May 28, 2015, extracted from the Correspondence Imaging System (CIS).¹ The sample was based on a 7 percent error rate, a ± 5 percent precision rate, and a 95 percent confidence level.
 2. Identified the IRS's processes used to review the accuracy of injured spouse cases (reviews using the Embedded Quality Review System and the National Quality Review System).
 3. Evaluated whether the error rates identified during the IRS's review processes accurately represented the error rates that we found in injured spouse cases closed between January 1, 2014, and May 28, 2015.

¹ The Correspondence Imaging System automates the controlling and organizing of taxpayer-generated correspondence.



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- II. Determined whether taxpayers' requests for relief under the Injured Spouse Program were processed timely.
 - A. Reviewed the Internal Revenue Manual to identify the time frames CSRs had to process injured spouse cases.
 - B. Determined whether the IRS was processing injured spouse cases within the required time frames.
 - 1. Obtained data from the IRS on the average number of days to process an injured spouse case.
 - 2. Interviewed Accounts Management employees to determine why the IRS is not processing injured spouse cases within the required time frames.
 - 3. Analyzed the IRS's AALs to determine the age of cases at the different campuses in the assigned inventory from May 30, 2015, to June 20, 2015.
 - C. Identified the impact of the IRS not meeting the required time frames for processing injured spouse cases by determining how much interest the IRS paid for injured spouse cases (cases processed after the 45-day interest-free time frame).
- III. Determined if IRS corrective actions to recommendations in the prior TIGTA report² were implemented.
 - A. Reviewed Form 8379 and its instructions to determine if they were accurate, complete, and current and provided a comprehensive reference for taxpayers.
 - B. Reviewed information in IRS publications and on IRS.gov related to the Injured Spouse Program to determine whether the information provided to taxpayers was consistent.
 - 1. Identified information provided to taxpayers regarding the Injured Spouse Program.
 - 2. Reviewed information identified in IRS publications and on IRS.gov to determine whether the information provided on the Injured Spouse Program was clear, accurate, and consistent.

² TIGTA, Ref. No. 2005-40-001, *Injured Spouse Guidance Is Not Consistent* (Oct. 2004).



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Validity and reliability of computer-processed data

Computer-processed data used in this audit were validated by selecting independent samples of injured spouse cases identified in an extract of the CIS from TIGTA's Data Center Warehouse and comparing it to the actual cases on the CIS. We validated the data in the CIS obtained from the TIGTA Data Center Warehouse by: 1) reviewing the data for obvious errors in accuracy and completeness; and 2) selecting a judgmental sample of cases from the extract to verify that the data elements extracted matched the taxpayer case information on the CIS. We determined that the data were valid and reliable for the 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: Accounts Management policies, procedures, and practices related to processing injured spouse cases. We evaluated these controls by interviewing management and employees, reviewing policies and procedures, and analyzing closed injured spouse cases.



*Injured Spouse Cases Were Not Always Timely
Resolved, Resulting in the Unnecessary Payment of Interest*

Appendix II

Major Contributors to This Report

Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services)
W. Allen Gray, Director
Linna K. Hung, Audit Manager
Pamela DeSimone, Lead Auditor
Kathy D. Coote, Auditor
Alexis E. Gomez, Auditor
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Laura Robertson, Auditor



*Injured Spouse Cases Were Not Always Timely
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Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Operations Support
Deputy Commissioner for Services and Enforcement
Deputy Commissioner, Wage and Investment Division
Director, Accounts Management, Wage and Investment Division
Director, Customer Account Services, Wage and Investment Division
Director, Strategy and Finance, Wage and Investment Division
Director, Submission Processing, Wage and Investment Division
Director, Tax Forms and Publications, Wage and Investment Division
Chief Counsel
Director, Office of Audit Coordination



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

Funds Put to Better Use – Potential; \$2.7 million in interest paid to taxpayers on injured spouse cases as a result of not resolving the cases within the 45-day interest-free period (see page 5).

Methodology Used to Measure the Reported Benefit:

Our review of a statistically valid sample¹ of 100 injured spouse cases out of 530,581 resolved by the IRS between January 1, 2014, and May 28, 2015, identified that 30 (30 percent) of these cases were not resolved within the required 45 days. The IRS paid interest in the amount of \$506.28 for these 30 cases as a result of not timely resolving the cases. Based on the results of our sample, we estimate that the IRS paid interest in the amount of \$2.7 million² for 159,174³ of the 530,581 injured spouse cases as a result of not timely resolving the cases.

¹ To select our statistically valid sample, we used an expected error rate of 7 percent, a precision rate of ± 5 percent, and a confidence interval of 95 percent.

² Our projection, based on a 95 percent confidence interval, is that the IRS paid between \$1.9 million and \$3.5 million in interest as a result of not timely resolving cases.

³ Our projection, based on a 95 percent confidence interval, is that the IRS paid avoidable interest on 111,284 to 207,065 cases as a result of not timely resolving the cases.



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

Appendix V

Management's Response to the Draft Report



COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

MAY 05 2016

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Debra Holland *Debra Holland*
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest (Audit # 201540014)

Thank you for the opportunity to review the subject draft report and provide comments. An injured spouse is a taxpayer who files a joint tax return for which all or part of his or her share of the tax refund was, or is expected to be, applied against the other spouse's past-due debt. The IRS Injured Spouse program assists taxpayers by providing the injured spouse relief to obtain his or her share of the joint refund. During Calendar Years 2014 and 2015, the IRS received and closed over 730,000 injured spouse cases. While we strive for 100 percent accuracy in processing injured spouse cases, we achieved a 91 percent accuracy rate on the sample cases reviewed during this audit.

The report identifies lack of usage of the Automated Age Listing (AAL), as a primary reason for the increased overage inventory, which leads to taxpayer burden and unnecessary interest payments. While we agree that AAL review/monitoring can improve, we must emphasize that there are other factors that impact our ability to timely process injured spouse cases. As of Fiscal Year 2015, the IRS budget had been cut by more than \$1.2 billion, and the IRS had approximately 15,000 fewer employees than in 2010. Fiscal Year 2015 marked the fifth consecutive year that the IRS had been challenged with performing our tax administration responsibilities and meeting taxpayer demand for services in an environment of reduced funding. The Accounts Management function had lost over 2,000 full-time equivalent staff positions since 2012, a reduction of 12.5 percent. Cases may remain on an employee's listing beyond several weeks due to interim actions required prior to closure. The diverse nature of Accounts Management work does not always allow closures of all cases on the weekly listings.

We will continue to work with Chief Counsel regarding the statute of limitations for any updates needed to Form 8379, *Injured Spouse Allocation*, and the instructions. The



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

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form and instructions are scheduled for a November 2016 release, with an early release of the draft instructions on IRS.gov in September 2016.

We continually look for ways to improve the accuracy and timeliness in addressing injured spouse cases within our limited resources, and we agree with the report's recommendations. Attached are our comments and corrective actions in response to the recommendations. If you have any questions, please contact me, or a member of your staff may contact Ivy McChesney, Director, Customer Account Services, Wage and Investment Division, at (404) 338-8910.

Attachment



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

Attachment

Recommendation

RECOMMENDATION 1

The Commissioner, Wage and Investment Division, should ensure that injured spouse cases are assigned to CSRs who have sufficient training, knowledge, and experience to resolve the cases.

CORRECTIVE ACTION

We will ensure Customer Service Representatives processing injured spouse allocations have sufficient training to resolve the cases.

IMPLEMENTATION DATE

February 15, 2017

RESPONSIBLE OFFICIAL

Director, Accounts Management, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

Recommendations

The Commissioner, Wage and Investment Division should:

RECOMMENDATION 2

Ensure taxpayers are informed of the current statute of limitations that the IRS applies when processing injured spouse cases in which a refund is offset for Federal tax debt and nontax debts.

CORRECTIVE ACTION

We will ensure taxpayers are informed of the period for submitting a Form 8379, *Injured Spouse Allocation*, which IRS currently applies when processing injured spouse cases. Until receipt of clarifying guidance from Chief Counsel regarding the time period for submitting an allocation related to a federal tax debt, we will update the applicable Internal Revenue Manual to reflect the opinion provided in the Chief Counsel memorandum dated September 23, 2013. This information is currently available on IRS.gov, and we will further ensure taxpayers are informed of this limitation by adding a lead-in sheet to the Form 8379 and instructions that clearly outlines the period for submitting an injured spouse claim.

IMPLEMENTATION DATE

October 15, 2016



Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest

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RESPONSIBLE OFFICIAL

Director, Accounts Management, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3

After receiving legal guidance from the Chief Counsel's office, prioritize the work needed to update the Form 8379 and its instructions to inform taxpayers of the statute of limitations for filing Forms 8379 where refunds are offset to nontax and tax debt.

CORRECTIVE ACTION

Upon receipt of clarifying guidance from Chief Counsel, we will take immediate action to ensure the Form 8379 and its instructions are updated to inform the taxpayer of the period for submitting an injured spouse allocation.

IMPLEMENTATION DATE

February 15, 2017

RESPONSIBLE OFFICIAL

Director, Accounts Management, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.