

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns

August 17, 2020

Reference Number: 2020-30-048

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HIGHLIGHTS: Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns



Final Audit Report issued on August 17, 2020
Reference Number 2020-30-048

Why TIGTA Did This Audit

The IRS Restructuring and Reform Act of 1998 requires TIGTA to review and certify annually whether or not the IRS is complying with the requirements of Internal Revenue Code Section 6103(e)(8) to disclose collection information to joint filers as to efforts to collect delinquent taxes on joint tax liabilities when requested by taxpayers who are no longer married or no longer reside in the same household. Internal Revenue Code Section 6103(e)(6) allows authorized representatives of joint filers to also receive the same collection information requested under Internal Revenue Code Section 6103(e)(8).

Impact on Taxpayers

If the IRS does not provide taxpayers the account information to which they are entitled, their taxpayer rights are violated and their ability to resolve their tax obligations may be negatively impacted.

What TIGTA Found

TIGTA reviewed case files to determine whether employees followed the joint return disclosure requirements on collection information requests and determined that disclosure requirements were not followed in 27 (66 percent) of 41 Integrated Collection System history files and 47 (52 percent) of 91 Account Management Services history files that directly related to joint filer requests. TIGTA determined that 42 (57 percent) of these 74 cases for which disclosure requirements were not followed had "mirrored accounts." Mirroring a joint filer account sets up two accounts, one for each of the taxpayers. Establishing two separate accounts provides the IRS a means to administer and track collection activity unique to each of the taxpayers. The same collection information, when requested for mirrored accounts, should be disclosed to both taxpayers as would be disclosed for any other jointly filed return, except when the request is for unrelated personal information.

TIGTA interviewed revenue officers from Field Collection and customer service representatives from the Automated Collection System (ACS) function to determine how they would respond to collection information requests for jointly filed returns from taxpayers who are no longer married or no longer reside in the same household and found that all 24 employees would provide collection activity details on a jointly filed return to a married taxpayer when requested. However, if the taxpayer was divorced or separated and the account was mirrored, TIGTA found that four of 12 revenue officers would not provide details of collection activity. Also, six of 12 ACS function customer service representatives would not provide details of collection activity.

IRS employees are still often unaware that they can disclose collection activity on jointly filed returns of divorced or separated taxpayers when an account is mirrored.

What TIGTA Recommended

TIGTA recommended that the Director, Collection, should provide employees with revised instructions to emphasize that disclosures to taxpayers who filed joint returns also include those with mirrored accounts, and should update the ACS function Internal Revenue Manual (IRM) to provide similar guidance to what is provided in the Field Collection IRM on what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether or not they have mirrored accounts.

The IRS agreed with both recommendations, stating that it plans to: 1) issue a memorandum for distribution to remind employees of the requirement to disclose the general nature of collection activities when taxpayers filed joint returns and that this disclosure also extends to those whose accounts have been mirrored, and 2) provide similar guidance in the ACS function IRM to what is provided in the Field Collection IRM as to mirrored accounts.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

August 17, 2020

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2020 Statutory Review
of Disclosure of Collection Activities on Joint Returns
(Audit # 202030017)

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 I.R.C. § 6103(e)(8). We have evaluated the IRS's compliance with these provisions since Fiscal Year 1999. This review is part of our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

Management's complete response to the draft report is included as Appendix III.

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 Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns

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Background

The Taxpayer Bill of Rights 2 added Internal Revenue Code (I.R.C.) Section (§) 6103(e)(8), which provides that, if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household (hereafter referred to as divorced or separated), upon request in writing by either of the individuals, the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount collected.¹ I.R.C. § 6103(e)(6) allows authorized representatives of the joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). After passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers.² This is more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which require the IRS to provide written responses to written requests. Additionally, in Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*.

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

The IRS Restructuring and Reform Act of 1998 requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request.³ We cannot readily identify the population of cases for which joint filers made such requests. To identify these requests, the IRS would have to conduct a manual review of every taxpayer case in the collection process with a jointly filed tax return, looking for a notation in the case file or a copy of the taxpayer's letter.

During last year's review, we interviewed a judgmental sample of revenue officers from the Small Business/Self-Employed Division's Field Collection function (hereafter referred to as Field Collection) and customer service representatives from the Automated Collection System (ACS) function and found that the information guaranteed under I.R.C. § 6103(e)(8) that should be disclosed under I.R.C. § 6103(e)(7) was not always being provided.⁴ We also identified some cases for which taxpayers requested collection information for jointly filed returns and determined that employees did not always follow the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8) (hereafter referred to as joint return disclosure requirements).

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

² Internal Revenue Manual 5.1.22.4(2) (Aug. 1, 2019).

³ 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.).

⁴ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population. TIGTA, Ref. No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Sept. 2019).



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Results of Review

Employees Are Not Consistently Disclosing Collection Activity on Jointly Filed Returns As Required

Over the last four years, we have interviewed IRS employees about how they respond or would respond to collection information requests for jointly filed returns from taxpayers who are divorced or separated. We have also queried computer system history files in an attempt to identify the full population of these cases. In our queries of the history files, we have not been able to identify the population of joint filer requests; however, beginning two years ago, our queries identified some cases for which taxpayers requested collection information for jointly filed returns. As a result, we made recommendations in an effort to improve IRS employee awareness of the requirement to provide divorced or separated taxpayers with information on their jointly filed returns. However, we continue to identify issues with employee understanding of the requirement.

In this year's review, we focused on revenue officers in Field Collection and customer service representatives in the ACS function. We queried case history files and interviewed employees. The results are included in this report.

History files showed that employees are not always aware of the disclosure requirements for joint filer taxpayer contacts

As part of this year's review, we queried IRS computer system history files in an attempt to identify the population of joint filer disclosure contacts made during Fiscal Year 2019. We performed queries on the history files using specific combinations of key words associated with separated or divorced joint filers to determine whether these word combinations would identify all joint filer disclosure contacts. We were not able to identify the population of all disclosure contacts based on key word searches; however, we did identify a number of cases potentially related to these types of contacts in both the Integrated Collection System (ICS) and the Account Management Services (AMS) history files.⁵

We reviewed judgmental samples of 41 ICS cases and 91 AMS cases that were directly related to joint filer requests.⁶ Based on our review, we determined that the joint return disclosure requirements were not followed in 27 (66 percent) of the 41 ICS history files and 47 (52 percent) of the 91 AMS history files. The 74 cases were exceptions because the employee would not provide any requested collection activity to the divorced or separated spouse that the employee is required to disclose by law. In most cases, the employee incorrectly stated that he or she could not provide any collection activity on the other joint taxpayer because the taxpayers were divorced or separated. Some of the other types of errors whereby the employee would not provide the collection information to the divorced or separated spouse were questions about

⁵ The ICS is a system used by Field Collection employees (revenue officers) to report taxpayer case time and activity. The AMS provides a common user interface that allows users to update taxpayer accounts, view history and comments from other systems, and access a variety of case processing tools. AMS histories are input by employees in the Small Business/Self-Employed Division's ACS function and the Wage and Investment Division's Accounts Management and Field Assistance functions; however, we only reviewed histories input by ACS employees.

⁶ See Appendix I for more details on how samples were selected.



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whether the other taxpayer made a payment, had an installment agreement, or filed for bankruptcy or whether there was a refund offset to the account. This is the same issue that we have identified over the last four years. We made recommendations to update the Internal Revenue Manual (IRM) sections and to provide additional training to employees; however, the corrective actions taken by the IRS have not resolved the issue.

We also observed that 42 (57 percent) of the 74 exception cases had “mirrored accounts.” Mirroring a jointly filed account sets up two accounts, one for each of the taxpayers. Establishing two separate accounts provides the IRS a means to administer and track collection activity unique to each of the taxpayers. Each of the taxpayers remain jointly liable for the entire debt; it does not divide the liability in half. Since the taxpayers are still jointly liable, the same collection information, when requested, on mirrored accounts should be disclosed to both taxpayers as would be disclosed on any other jointly filed return, except when the request is for unrelated personal information.⁷

The Field Collection function IRM provides that I.R.C. § 6103(e)(7) authorizes the IRS to disclose certain information to taxpayers who filed a joint return and are now divorced or separated and to their authorized representatives about the IRS’s efforts to collect taxes owed. In addition, it specifically includes that this guidance also applies to mirrored accounts.⁸ The ACS function IRM directs employees to follow the procedures in the Disclosure IRM when determining what information can be disclosed to the other spouse.⁹ However, the referenced Disclosure IRM only includes what can be disclosed to divorced or separated joint filers but does not include any information specific to mirrored accounts.¹⁰ While the ACS function IRM provides some examples of what account information can and cannot be disclosed on mirrored accounts, including for separated and divorced taxpayers, it does not make it clear that certain collection information can be disclosed to both parties of a joint account whether the taxpayers are married, divorced, separated, or have mirrored accounts.¹¹ The ACS function IRM should provide that information without the employee having to go to the Disclosure IRM for clarity.

For consistency on joint filer disclosure information, we recommended in our Fiscal Year 2018 report that the IRS require all IRM sections used as guidance by employees who respond to taxpayer inquiries on disclosure of collection activities with respect to joint returns be updated to refer to the Disclosure IRM, which states that procedures and guidance apply to all IRS employees and contractors.¹² However, the IRS disagreed with this recommendation and responded that the Disclosure IRM is not intended to relay specific operational procedures. We included the following Office of Audit comment in the report, “The purpose of the Disclosure IRM is to provide instructions, guidelines, and procedures necessary to fulfill IRS employees’ obligations under the disclosure laws. We therefore maintain the Disclosure Office should ensure that IRS employees have sufficient and accurate guidance related to the disclosure laws.”¹³ However, if the IRS is not going to include specific operational procedures in the

⁷ IRM guidance also includes prohibited disclosures such as the other spouse’s location, telephone number, employment, income, assets, or income level at which a currently not collectible account will be reactivated.

⁸ IRM 5.1.22.4.1(1) (Aug. 1, 2019).

⁹ IRM 5.19.5.4.11.1(4) (Mar. 9, 2018).

¹⁰ IRM 11.3.2.4.1.1 (Jan. 26, 2017).

¹¹ IRM 5.19.5.4.11.1(5) (Mar. 9, 2018).

¹² TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns* (July 2018).

¹³ TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns*, pp. 7 and 8 (July 2018).



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Disclosure IRM, it should have clear and consistent guidance in the individual Collection function IRMs.

Interviews showed that employees are not always aware of the disclosure requirements for joint filer taxpayer contacts

This year we interviewed a judgmental sample of 24 employees: 12 revenue officers from Field Collection and 12 customer service representatives from the ACS function. The interviews were to determine what information the employees would disclose from a jointly filed return if the individuals filing the return are divorced or separated.

During the interviews, we asked employees two questions regarding whether they would provide collection activity information to a taxpayer on a jointly filed return. In addition, we asked two questions about whether the employee would provide this same information on a jointly filed return to a taxpayer who is now divorced or separated and has a mirrored account. We found that all 24 of the employees would provide collection activity details on a jointly filed return to a married taxpayer when requested. However, if the taxpayer was divorced or separated, and the account was mirrored, we found that:

- Four of 12 revenue officers would not provide details of collection activity.
- Six of 12 ACS function customer service representatives would not provide details of collection activity.

During last year's review, the IRS provided us with interim guidance effective April 11, 2019, and has since updated the Field Collection function IRM to make it clear that information shall be disclosed *verbally* upon receipt of a *verbal or written* request from a spouse who has been assessed the joint tax. The updated guidance also includes the following items that can be disclosed to the joint filer taxpayer:

- Whether the IRS has attempted to collect the deficiency from the other spouse.
- The amount collected, if any, and the current collection status, *e.g.*, notice, Taxpayer Delinquent Account, installment agreement, offer in compromise, suspended.
- If suspended, the reason for suspension, *e.g.*, unable to locate, hardship.¹⁴

During our interviews, only one employee said they would ask for requests in writing; however, the interviews show that employees continue to not always understand that taxpayers are entitled to collection activity information on jointly filed returns whether they are married, separated, or divorced and whether or not their account is mirrored. The IRS is violating taxpayers' rights when this information is not provided.

In last year's report, we recommended that the IRS should produce a detailed but simple-to-understand list of information so that IRS employees understand the type of information that must be provided to joint filer taxpayers seeking collection information as well as what must not be provided. In response to our recommendation, the Director, Collection Policy, took corrective action by issuing a memorandum to Field Collection and the ACS on December 20, 2019, that provided a list of common collection scenarios to assist employees

¹⁴ IRM 5.1.22.4.1(5) (Aug. 1, 2019).



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when responding to these joint filer requests.¹⁵ However, we found that neither the memorandum nor the list of scenarios includes language that disclosures to joint filers on collection information includes those taxpayers with mirrored accounts. In addition, in prior years, we identified the following issues with disclosures on mirrored accounts, and we made recommendations to try to improve employees' understanding.

- In our Fiscal Year 2017 audit, we interviewed ACS employees and found that there was some uncertainty about what information could be disclosed when a mirrored account had been established. We determined that the IRM did not address mirrored accounts related to joint filer inquiries. The IRS agreed to our recommendation and updated the ACS function IRM to include what mirrored account information can be disclosed.¹⁶
- In our Fiscal Year 2018 audit, we reviewed ICS and AMS case histories and found errors whereby employees did not disclose any information to the taxpayer because the account was mirrored. In addition, we interviewed Accounts Management function, Taxpayer Assistance Center, and Taxpayer Advocate Service employees. The majority of these employees incorrectly stated that they could not disclose any information from the other joint filer's mirrored account because it is a separate account. We recommended that the IRS update the Disclosure IRM and the training materials for these employees. The IRS agreed with updating the applicable training materials but disagreed with updating the Disclosure IRM.¹⁷

Even though we have made recommendations for improvements in prior years, IRS actions have not sufficiently addressed disclosures to joint filer taxpayers with mirrored accounts. During our interviews this year, we found that IRS employees are still often unaware that they can disclose collection activity on jointly filed returns of divorced or separated taxpayers when an account is mirrored. Collection activity on a jointly filed return may be disclosed to either taxpayer, regardless of whether the taxpayers are married or are now divorced or separated or whether they have mirrored accounts.

Based on our review of case histories and interviews with employees, there is continued inconsistency in how employees are responding to taxpayers' requests for collection information on their previous jointly filed returns when they are divorced or separated. When employees are unsure of the appropriate disclosure, they might not want to risk inappropriate disclosure of I.R.C. § 6103 and potential discipline for the error. There needs to be clear guidance and continued reminders on the appropriate response when asked about collection activity on jointly filed returns of divorced or separated joint filers, including when their account is mirrored, so that employees answering taxpayer inquiries are aware that these taxpayers are entitled to information related to their jointly filed returns.

¹⁵ TIGTA, Ref. No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Sept. 2019).

¹⁶ TIGTA, Ref. No. 2017-30-058, *Fiscal Year 2017 Statutory Review of Disclosure of Collection Activities on Joint Returns*, pp. 4 and 5 (Aug. 2017).

¹⁷ TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns*, pp. 4, 5, and 7–9 (July 2018).



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The Director, Collection, should:

Recommendation 1: Update the December 19, 2019, memorandum to the Field Collection function and the ACS function to include instructions which emphasize that disclosures to taxpayers who filed joint returns also includes those with mirrored accounts.

Management's Response: Management agreed with this recommendation and will issue a memorandum to the Directors of Field Collection and Campus Collection for distribution to employees who have contact with taxpayers. The memorandum will remind employees of the requirement to disclose the general nature of collection activities for instances in which taxpayers filed joint returns and that this disclosure also extends to those whose accounts have been mirrored.

Recommendation 2: Update the ACS function IRM to provide similar guidance to what is provided in the Field Collection function IRM on what collection activity must be disclosed to taxpayers who jointly filed returns, whether they are married, divorced, or separated and whether they have mirrored accounts.

Management's Response: Management agreed with this recommendation and will provide similar guidance in the ACS function IRM to what is provided in the Field Collection IRM as to mirrored accounts.



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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:

- Contacted IRS management in the Small Business/Self-Employed Division 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 related to the requirements of I.R.C. § 6103(e)(8).
- Contacted the appropriate IRS and TIGTA Office of Investigations management personnel to determine if any systems or processes have been modified since our last review to track taxpayer complaints related to the requirements of I.R.C. § 6103(e)(8).
- Evaluated the IRS's compliance with the requirements of I.R.C. §§ 6103(e)(7) and (e)(8) by requesting assistance from TIGTA's Applied Research and Technology group to identify a potential population of separated or divorced taxpayers with disclosure-related contacts in Fiscal Year 2019. That group identified 139 ICS and 469 AMS history files that potentially related to taxpayer requests for collection activity information on jointly filed returns for which the taxpayers were now either divorced or separated. We reviewed all 139 ICS history files and identified a judgmental sample of 41 cases directly related to joint filer requests.¹ We reviewed the first 340 of 469 AMS history files and identified a judgmental sample of 91 cases directly related to joint filer requests.
- Determined if Collection function employees have knowledge of the disclosure requirements of I.R.C. §§ 6103(e)(7) and (e)(8).

Performance of This Review

This year's review was performed with information obtained from the offices of the IRS Commissioner, the National Taxpayer Advocate, and the Small Business/Self-Employed Division Headquarters located in Washington, D.C., and various Field Collection offices and IRS campuses during the period November 2019 through June 2020. 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, Director; Javier L. Fernandez, Audit Manager; Beverly K. Tamanaha, Audit Manager; Janis Zuika, Lead Auditor; and Kevin B. Nielsen, Information Technology Specialist (Data Analytics).

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



Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns

Validity and Reliability of Data From Computer-Based Systems

The data sources for the data analytics are the AMS and ICS case history files retained in the Data Center Warehouse. The Data Center Warehouse retains data for the ICS on a fiscal year basis, whereas it retains the AMS data on a calendar year basis. Therefore, two extractions were run for the AMS data to obtain a fiscal year population (Calendar Year 2018 from October 1 through December 31, 2018, and Calendar Year 2019 from January 1 through September 30, 2019).

Multiple sources of evidence were used to support our findings, conclusions, and recommendations. Electronic data testing was performed for missing data, outliers, or obvious errors. Since multiple searches were done, some narratives that were returned multiple times were removed. All data elements assessed are sufficiently reliable for the purpose of this audit.

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: documented procedures pertaining to requests under I.R.C. § 6103(e)(8). We evaluated these controls by reviewing AMS and ICS computer system history files and conducting interviews with Collection function personnel who receive these requests.



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Appendix II

Recent Audit Reports Related to This Statutory Review¹

TIGTA, Ref. No. 2015-30-050, *Fiscal Year 2015 Mandatory Review of Disclosure of Collection Activities on Joint Returns* (May 2015).

TIGTA, Ref. No. 2016-30-060, *Fiscal Year 2016 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2016).

TIGTA, Ref. No. 2017-30-058, *Fiscal Year 2017 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Aug. 2017).

TIGTA, Ref. No. 2018-30-053, *Fiscal Year 2018 Statutory Review of Disclosure of Collection Activities on Joint Returns* (July 2018).

TIGTA, Ref. No. 2019-30-059, *Fiscal Year 2019 Statutory Review of Disclosure of Collection Activities on Joint Returns* (Sept. 2019).

¹ This list provides the most recent five of the 21 previous reports issued by TIGTA.



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Appendix III

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

August 3, 2020

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Eric C. Hylton **Eric C. Hylton** Digitally signed by Eric C. Hylton
Date: 2020.08.03 10:27:29 -04'00'
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2020 Statutory Review of
Disclosure of Collection Activities on Joint Returns (Audit
#202030017)

Thank you for the opportunity to review the subject draft report. TIGTA is required to annually review and certify the IRS's compliance with Internal Revenue Code (IRC) § 6103(e)(8), which requires the IRS, upon request, to disclose efforts to collect delinquent taxes on joint tax return liabilities to taxpayers who are no longer married or no longer reside in the same household, unless the disclosure would impair federal tax administration.

We recognize that taxpayers who are divorced or separated can be in a difficult position with respect to a tax debt on a joint return for which they remain liable. We are committed to helping them resolve their tax liabilities, including by providing them the information we are authorized to disclose regarding our efforts to collect the delinquent tax.

We have taken steps in recent years to promote awareness among our employees of IRC § 6103(e)(8) requirements and procedures, and these measures have driven improvements in employees' awareness and understanding so that they disclose the appropriate information when they receive these requests. As a result of last year's TIGTA audit on this subject, we prepared detailed but simple-to-understand guidance for the most common scenarios where this issue arises. We provided this updated guidance to our Field Collection and Automated Collection System (ACS) employees in January. We have also made a number of improvements to the relevant Internal Revenue Manual (IRM) sections.

This year, TIGTA reviewed a sample of IRS system case history files and interviewed a sample of employees from ACS and Field Collection about these procedures. We are pleased that TIGTA found that all of the employees who were interviewed would provide collection activity details on a jointly filed return to a married taxpayer, when requested.



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However, there were instances in which employees were unaware that they can disclose collection activity on jointly filed returns of divorced or separated taxpayers when an account is mirrored.

We agree to update the guidance we issued earlier this year to include instructions emphasizing that the rules involving disclosures to taxpayers who filed joint returns also extend to those whose accounts have been mirrored. We will also update the ACS function IRM with regard to mirrored accounts.

We will continue to strive to provide good customer service and make appropriate disclosures of information when responding to requests made under IRC § 6103(e)(8), while remaining mindful of our statutory obligation to protect the confidentiality of taxpayer data. Attached is a detailed response outlining our planned corrective actions. If you have any questions, please contact me or Paul Mamo, Director, Collection Operations, Small Business/Self-Employed Division.

Attachment



Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns

Attachment

RECOMMENDATION 1:

The Director, Collection, should update the December 19, 2019, memorandum to the Field Collection function and the ACS function to include instructions which emphasize that disclosures to taxpayers who filed joint returns also includes those with mirrored accounts.

CORRECTIVE ACTION:

We will issue a memorandum to the Directors of Field Collection and Campus Collection for distribution to employees who have contact with taxpayers. The memorandum will remind employees of the requirement to disclose the general nature of collection activities in instances where taxpayers filed joint returns and that this disclosure also extends to those whose accounts have been mirrored.

IMPLEMENTATION DATE:

April 15, 2021

RESPONSIBLE OFFICIAL:

Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2:

The Director, Collection, should update the ACS function IRM to provide similar guidance to what is provided in the Field Collection function IRM on what collection activity must be disclosed to taxpayers who jointly filed returns whether they are married, divorced, or separated and whether they have mirrored accounts.

CORRECTIVE ACTION:

We will provide similar guidance in the ACS function IRM to what is provided in the Field Collection IRM in section 5.1.22.4.1(1), as to mirrored accounts.

IMPLEMENTATION DATE:

February 15, 2021

RESPONSIBLE OFFICIAL:

Director, Collection Inventory Delivery & Selection, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.



Fiscal Year 2020 Statutory Review of Disclosure of Collection Activities on Joint Returns

Appendix IV

Abbreviations

ACS	Automated Collection System
AMS	Account Management Services
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration