

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2022 Statutory Review of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations**

September 12, 2022

Report Number: 2022-IE-R004

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.

**HIGHLIGHTS: Fiscal Year 2022 Statutory Review of Compliance With Legal Guidelines  
Prohibiting the Use of Illegal Tax Protester and Similar Designations**

Final Evaluation Report issued on September 12, 2022

Report Number 2022-IE-R004

**Why TIGTA Did This Study**

Section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) prohibits the use of the term “Illegal Tax Protester” and similar designations. This legislation was enacted due to concerns that some taxpayers were being permanently labeled as Illegal Tax Protesters by the IRS despite subsequently becoming compliant with the tax laws. TIGTA is required to annually evaluate the IRS’s compliance with this law.

The purpose of this evaluation is to determine whether the IRS complied with the RRA 98 § 3707 and internal IRS guidance that prohibits IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations.

**Impact on Tax Administration**

Using Illegal Tax Protester or other similar designations may stigmatize taxpayers and cause employee bias in future contacts with these taxpayers.

**What TIGTA Found**

Prior to enactment of the RRA 98, the IRS used Illegal Tax Protester indicators on its Individual Master File to accelerate enforcement activity for taxpayers whose tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments repeatedly rejected by the courts. Section 3707 of the RRA 98 required the IRS to remove the existing Illegal Tax Protester designations from taxpayers’ accounts on the Individual Master File beginning January 1, 1999.

TIGTA’s review found that Illegal Tax Protester codes were not used on the Master File in Fiscal Year 2021. Additionally, TIGTA’s review of over half a million Taxpayer Information File records found no records created in Fiscal Year 2021 using the term Illegal Tax Protester or similar designations.

However, TIGTA’s review of over 70 million narrative records created during Fiscal Year 2021 in the Accounts Management Services system found that employees referenced the term Illegal Tax Protester or similar designation on six records for six different taxpayers. Further, TIGTA reviewed 25,857 narrative records from the Criminal Investigation Management Information System and identified 10 records that used the term Illegal Tax Protester or similar designations involving eight employees and [REDACTED] taxpayer accounts. TIGTA also reviewed 155,431 narrative records in the Taxpayer Advocate Management Information System and identified [REDACTED] referencing the term Illegal Tax Protester or similar designation.

**What TIGTA Recommended**

TIGTA made no recommendations in this report.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20024**

September 12, 2022

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Russell P. Martin   
Deputy Inspector General for Inspections and Evaluations

**SUBJECT:** Final Evaluation Report – Fiscal Year 2022 Statutory Review of  
Compliance With Legal Guidelines Prohibiting the Use of  
Illegal Tax Protester and Similar Designations (IE-22-005)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with the IRS Restructuring and Reform Act of 1998 § 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or similar designations. This review is part of our Fiscal Year 2022 Annual Program Plan, is required by statute, and addresses the major management and performance challenge of *Protecting Taxpayer Rights* and *Improving Customer Service and the Taxpayer Experience*.

Although we made no recommendations in this report, we provided IRS management officials with an advance copy of this report for review and comment prior to issuance. 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 information. If you have any questions, please contact me or James A. Douglas, Office of Inspections and Evaluations.

## Table of Contents

<b>Background</b> .....	Page 1
<b>Results of Review</b> .....	Page 2
In a Few Instances, Employees Used Illegal Tax Protester or Similar Designations in Case Narratives or Comments.....	Page 2
<b>Appendices</b>	
Appendix I – Detailed Objective, Scope, and Methodology.....	Page 4
Appendix II – Recent Audit Reports Related to This Statutory Review .....	Page 6
Appendix III – Glossary of Terms.....	Page 7
Appendix IV – Abbreviations .....	Page 8

## Background

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) § 3707 prohibits the IRS from designating taxpayers as Illegal Tax Protesters or any similar designations.<sup>1</sup> In addition, the law requires the removal of all existing Illegal Tax Protester codes from the Master File and instructs IRS employees to disregard any such designations located on databases other than the Individual Master File (IMF).<sup>2</sup>

**TIGTA is required to annually evaluate the IRS's compliance with the prohibition against using Illegal Tax Protester or any similar designations.**

Prior to the enactment of the RRA 98, the IRS used the Illegal Tax Protester Program to identify individuals and businesses that were using methods that were not legally valid to protest the tax laws. IRS employees identified taxpayers for referral to the Program when their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. There were tax protester coordinators who were responsible for determining whether a taxpayer should be included in the Illegal Tax Protester Program. If a taxpayer was classified as an Illegal Tax Protester, the taxpayer's record was coded as such on the IMF. Once a taxpayer's account was coded, certain tax enforcement actions were accelerated. The designation was also intended to alert employees to be cautious so they would not be drawn into confrontation with taxpayers.

Congress was concerned that some taxpayers were being permanently labeled and stigmatized by the Illegal Tax Protester designation. The concern was that this label could bias IRS employees and result in unfair treatment of the taxpayer. Internal Revenue Code<sup>3</sup> § 7803(d)(1)(A)(v) requires the Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate the IRS's compliance with the prohibitions against using the Illegal Tax Protester or similar designations. This is our twenty-fourth review since Fiscal Year (FY) 1999. These reviews have identified areas for improvement to help the IRS comply with the Illegal Tax Protester designation prohibition.<sup>4</sup>

To conduct this review, TIGTA analyzes the Master File annually to determine if illegal protester codes were added to tax accounts. In addition, each year, TIGTA also selects other IRS systems for review on a rotating basis. This year, TIGTA focused on the Accounts Management Services (AMS) system, the Criminal Investigation Management Information System (CIMIS), the Taxpayer Advocate Management Information System (TAMIS) and the Taxpayer Information File (TIF).<sup>5</sup>

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

<sup>2</sup> See Appendix III for glossary of terms.

<sup>3</sup> The Internal Revenue Code is the Federal tax law enacted by Congress as Title 26 of the United States Code.

<sup>4</sup> See Appendix II for list of the five prior reports.

<sup>5</sup> The TIF is a major database for use within the Integrated Data Retrieval System, which is a mission-critical IRS system created in 1973 that is used by approximately 60,000 employees and provides systemic review and consistency in case control, alleviates staffing needs, issues notices to taxpayers, and allows taxpayers to see the status of refunds.

Case narratives are electronically searched to identify any instances in which Illegal Tax Protester or similar designations appear, and identified instances are then subsequently manually verified for context.

## Results of Review

Section 3707 of the RRA 98 prohibits the IRS from designating taxpayers as Illegal Tax Protesters or any similar designations. The law also required the IRS to remove the existing Illegal Tax Protester designations from taxpayers' accounts on the IMF beginning January 1, 1999. Our review found that illegal tax protester codes were not used on the Master File. Specifically, we found no accelerated collection activity records on the Master File with an Illegal Tax Protester code designating the taxpayers as an Illegal Tax Protester that were used prior to the RRA 98. However, our electronic review of 70.9 million FY 2021 records associated with selected IRS system case histories covering the period October 1, 2020, through September 30, 2021, identified 18 records that referenced the term Illegal Tax Protester or similar designations.

### In a Few Instances, Employees Used Illegal Tax Protester or Similar Designations in Case Narratives or Comments

Our review of 542,461 TIF records, comprised of taxpayer entity and tax period records for the period October 1, 2020, through September 30, 2021, identified no instances in which illegal tax protester or similar designations were referenced. However, we identified 16 employees who referenced the term Illegal Tax Protester or similar designations in a case narrative or comment in the AMS system, the CIMIS, and the TAMIS in 18 instances/records. The three IRS computer systems and instances/records are described as follows:

**Accounts Management Services (AMS):** Our review of approximately 70.2 million FY 2021 AMS records found that six employees referenced the term Illegal Tax Protester or similar designations on six records for six different taxpayers. The number of employees we found improperly referencing taxpayers within the AMS system has increased since our FY 2021 review in which we identified no employees improperly referencing taxpayers.<sup>6</sup> Internal guidelines instruct employees using the AMS, "When documenting AMS, do not use the term Illegal Tax Protester (ITP), Fraudulent or similar designations..."<sup>7</sup>

**Criminal Investigation Management Information System (CIMIS):** Our review of 25,857 records from two tables<sup>8</sup> of the CIMIS for cases closed in FY 2021 or cases that remained open as of September 30, 2021, identified 10 records that used the term Illegal Tax Protester or similar designation involving eight employees and [REDACTED] taxpayer cases/accounts. [REDACTED] of the

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<sup>6</sup> TIGTA, Report No. 2021-30-048, *Fiscal Year 2021 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designation* (Aug. 2021).

<sup>7</sup> Internal Revenue Manual (IRM) 5.19.11.10.5 *Frivolous Communications* (6).

<sup>8</sup> We reviewed the Allegation table and the Operational Review table. The Allegation table consisted of 4,341 records that summarize the unlawful/criminal activity involved in the investigation or the scope/purpose of the General Investigation. The Operational Review table consisted of 21,516 records and is used by the special agent in charge and assistant special agent in charge to conduct group operational reviews.

**Final Report – Fiscal Year 2022 Statutory Review of Compliance With Legal Guidelines  
Prohibiting the Use of Illegal Tax Protester and Similar Designations**

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10 designations were made by IRS managers. In our last review of the CIMIS for FY 2019,<sup>9</sup> we found that managers made three references to Illegal Tax Protester or similar designation. Although these are relatively few instances and these references were made as part of a closed case review, we are concerned that these labels are being used by management personnel.

Internal guidelines instruct Criminal Investigation employees when entering allegations of noncompliance to: “Refrain from the use of terms ‘illegal tax protester’, ‘constitutionally challenged’, or similar language when referring to taxpayers. When in doubt describe the action, such as ‘the taxpayer filed frivolous returns’ or ‘the taxpayer adamantly refuses to file required returns.’”<sup>10</sup>

**Taxpayer Advocate Management Information System (TAMIS):** Our review of 155,431 records created or updated on cases closed in FY 2021 or that remained open as of September 30, 2021, identified [REDACTED] referencing the term Illegal Tax Protester or similar designation. In our last review of the TAMIS for FY 2017, we found three references to Illegal Tax Protester or similar designations.<sup>11</sup>

Internal guidelines instruct Taxpayer Advocate Service employees to avoid using Illegal Tax Protester or similar designations because the use of such terms may result in unfair treatment.<sup>12</sup> In response to prior findings, IRS management continues to reinforce its policy by issuing alerts to employees and ensuring that internal guideline updates retain reminders to employees regarding the prohibition on the use of Illegal Tax Protester or other similar designations when accessing taxpayer accounts.<sup>13</sup> For example, on May 5, 2022, the IRS issued an all-employee alert reminding employees that RRA 98 § 3707 “prohibits the Service from designating taxpayers as ‘illegal tax protesters’ or similar designations.”

Because the IRS continues to issue alerts reminding employees of the prohibition of the Service designating taxpayers as Illegal Tax Protesters or similar designations, and due to the small number of designations identified in our review, we are not making a recommendation.

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<sup>9</sup> TIGTA, Report No. 2019-30-045, *Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (July 2019).

<sup>10</sup> IRM 9.9.4.8.1 *Allegation of Non-Compliance* (2)g.

<sup>11</sup> TIGTA, Report No. 2018-30-056, *Fiscal Year 2018 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2018).

<sup>12</sup> IRM 13.1.2.6 *Documentation For Constitutional or Frivolous Arguments*.

<sup>13</sup> TIGTA, Report No. 2019-30-045, *Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (July 2019).

## **Appendix I**

### **Detailed Objective, Scope, and Methodology**

The overall objective of this evaluation was to determine whether the IRS complied with RRA 98 § 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations. To accomplish our objective, we:

- Determined whether the IRS’s Master File is free of Illegal Tax Protester designation as required by RRA 98 and did not contain new coding to refer to Illegal Tax Protester taxpayers. We analyzed the IMF population of 1,043,484 records and the Business Master File population of 206,279 records that had been coded for accelerated collection activity between October 1, 2020, and September 30, 2021 (FY 2021).<sup>1</sup> We also matched our historic computer extract of approximately 48,919 taxpayers designated as Illegal Tax Protesters before the RRA 98 was enacted to the records that had been coded for accelerated collection activity to determine if any new common codes were being used to classify the taxpayers as Illegal Tax Protesters.
- Determined if employees were using Illegal Tax Protester or any similar designations within the Activity Code field on the TIF by securing a copy of the database and analyzing 542,461 open records with activity in FY 2021.
- Determined if IRS employees were using the Illegal Tax Protester or any similar designations within taxpayer case narratives on the AMS system by querying the 70.2 million AMS narrative records available at the TIGTA Data Center Warehouse with a history action date in FY 2021 using character strings of terms comprising components of Illegal Tax Protester and similar designations. We identified 36,205 potential records that we subjected to additional electronic or manual review.
- Determined if IRS Criminal Investigation employees were using the Illegal Tax Protester or any similar designations within taxpayer case narratives on the CIMIS by securing and analyzing copies of the 25,857 narratives records in the CIMIS with history actions dates in FY 2021.
- Determined if IRS Taxpayer Advocate Service employees were using the Illegal Tax Protester or any similar designations within taxpayer case narratives on the TAMIS by securing a copy of the database and analyzing 155,431 narrative records with history action dates in FY 2021.

#### **Performance of This Review**

This review was performed during the period December 2021 through June 2022 using information obtained from electronic files provided by the Small Business/Self-Employed Division, located in Lanham, Maryland; the Wage and Investment Division, located in Atlanta, Georgia; Criminal Investigation, located in Washington, D.C.; and the Taxpayer Advocate Service,

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<sup>1</sup> A Transaction Code 148 causes the accelerated issuance of a Taxpayer Delinquency Investigation or Taxpayer Delinquent Account.

located in Washington D.C. We conducted this evaluation in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspections and Evaluation.

Major contributors to the report were James Douglas, Director; Brandon Crowder, Supervisory Evaluator; Earl Burney, Lead Evaluator; Andrew Landers, Senior Evaluator

### **Validity and Reliability of Data From Computer-Based Systems**

We performed tests to assess the reliability of data from the IMF, Business Master File, TIF, AMS system, CIMIS, and TAMIS. We evaluated the data by scanning for blank, incomplete, or improper data. In addition, we compared the information in a judgmental sample of records from each system to IRS source data on the Integrated Data Retrieval System to ensure data accuracy. We determined that the data were sufficiently reliable for purposes of this report.

## Appendix II

### Recent Audit Reports Related to This Statutory Review

TIGTA, Report No. 2017-30-059, *Fiscal Year 2017 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2017).

TIGTA, Report No. 2018-30-56, *Fiscal Year 2018 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2018).

TIGTA, Report No. 2019-30-045, *Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (July 2019).

TIGTA, Report No. 2020-30-057, *Fiscal Year 2020 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Sept. 2020).

TIGTA, Report No. 2021-30-048, *Fiscal Year 2021 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Aug. 2021).

## Appendix III

### Glossary of Terms

<b>Term</b>	<b>Definition</b>
Accounts Management Services (AMS) System	Provides employees with access to multiple IRS systems through its computers and allows for inventory management, case delivery, history narratives, print-to-fax capabilities for sending information to taxpayers, and electronic referral generation.
Business Master File (BMF)	IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
Criminal Investigation Management Information System (CIMIS)	A database that tracks the status and progress of criminal investigations and the time expended by special agents. It is also used as a management tool that provides the basis for decisions of both local and national scope.
Fiscal Year (FY)	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government’s fiscal year begins on October 1 and ends on September 30.
Individual Master File (IMF)	IRS database that maintains transactions or records of individual tax accounts.
Integrated Data Retrieval System	A mission critical IRS system created in 1973 and used by approximately 60,000 employees that provides systemic review and consistency in case control, alleviates staffing needs, issues notices to taxpayers and allows taxpayers to see the status of refunds.
Internal Revenue Manual (IRM)	The official compilation of IRS policies, procedures, and guidelines. The purpose of the IRM is to provide instructions to staff. These instructions relate to administration and operation of the IRS for all business units. The IRM ensures that employees have the approved guidelines, policies, and authorities they need to carry out their responsibilities in administering tax laws and other agency obligations. The IRM explains what needs to be done, how to do it, and who is responsible to ensure consistent work performance.
Master File (MF)	The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.
Taxpayer Advocate’s Management Information System (TAMIS)	A computerized inventory control and report system developed for the Taxpayer Advocate Service to record, control, process, and analyze cases received from taxpayers and their representatives.
Taxpayer Information File (TIF)	The major database for use within the Integrated Data Retrieval System. It comprises the Business TIF Data Store for Business Master File accounts, the Individual TIF Data Store for IMF accounts, and the Miscellaneous TIF Store for Employee Plans Master File Processing and Automated Non-Master File accounts. The TIF also contains the Audit Information Management System Data Store.

## Appendix IV

### Abbreviations

AMS	Accounts Management Services
CIMIS	Criminal Investigation Management Information System
FY	Fiscal Year
IMF	Individual Master File
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Internal Revenue Service Restructuring and Reform Act of 1998
TAMIS	Taxpayer Advocate Management Information System
TIF	Taxpayer Information File
TIGTA	Treasury Inspector General for Tax Administration



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