TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

The IRS Has Not Adequately Prioritized Federal Civilian Employee Nonfilers

March 6, 2023

Report Number: 2023-30-011

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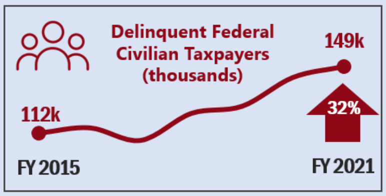
Why TIGTA Did This Audit

The number of delinquent Federal civilian employees has increased by 32 percent from Fiscal Years (FY) 2015 to 2021. In FY 2021, 149,000 Federal civilian employees owed $1.5 billion in unpaid taxes.



In 1993, the IRS established the Federal Employee/Retiree Delinquency Initiative (FERDI) program to promote Federal tax compliance among current and retired Federal civilian and military employees. This audit was initiated to determine whether the IRS is effectively addressing Federal employees who fail to file their tax returns.

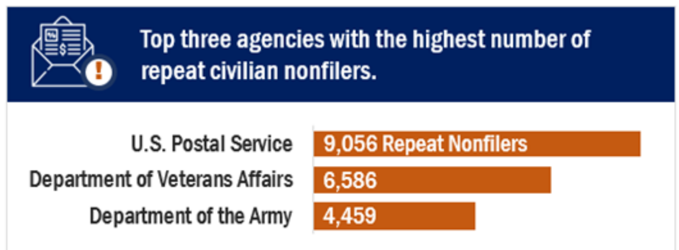
Impact on Tax Administration

Like all taxpayers, Federal employees and retirees have a legal obligation to file tax returns and pay their taxes. However, Federal employees are held to a higher standard for a number of reasons, including that they draw their compensation and funds from Federal taxes. As the agency primarily responsible for administering Federal tax law, the IRS must ensure that Federal employees comply with the tax law in order to maintain the public's confidence.

What TIGTA Found

Repeatedly and intentionally not filing a tax return when required to do so is a brazen form of noncompliance, particularly when it is done by Federal employees. While the IRS can identify and discipline its own tax delinquent employees, it cannot share employee return information with other Federal agencies due to Internal Revenue Code (I.R.C.) § 6103 (which generally protects the disclosure of taxpayer information) statutory limitations.

TIGTA's analysis of FYs 2016 through 2020 FERDI data found that over 42,000 Federal civilian employees repeatedly failed to file a tax return for multiple years. The figure below shows the top three Federal agencies with the highest rates of civilian repeat nonfilers based on this analysis.



When nonfiling is determined to be willful, the IRS and the Department of Justice can pursue criminal charges under I.R.C. § 7203 for willful failure to file a return, supply information, or pay tax. [redacted] The civil fraudulent failure to file penalty can also be assessed against nonfilers when badges of fraud are present. However, IRS management stated that 10 Federal civilian nonfilers were assessed this penalty from FYs 2016 through 2020.

The time the IRS dedicates to Federal employee nonfilers is minimal. In October 2021, during the course of our review, IRS management started to dedicate one day per quarter for employees to work standalone FERDI nonfiler cases (an expansion from whenever collection representatives were available). Inadequate resources, challenges related to the Coronavirus 2019 Disease pandemic, and management priorities led to backlogs and reduced workdays of FERDI nonfiler cases. The IRS is currently working on improvements in these areas; however, further improvements can be made.

What TIGTA Recommended

TIGTA made 11 recommendations to help the IRS address Federal nonfiler cases more efficiently and effectively. The IRS agreed with and provided planned corrective actions for 10 of the recommendations.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

March 6, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The IRS Has Not Adequately Prioritized Federal Civilian Employee Nonfilers (Audit #202130012)

This report presents the results of our review to determine whether the Internal Revenue Service is effectively addressing Federal employees who fail to file their tax returns. This review was part of our Fiscal Year 2022 Annual Audit Plan and addresses the major management and performance challenge of *Improving Tax Reporting and Payment Compliance to Reduce the Tax Gap*.

Management's complete response to the draft report is included as Appendix III. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

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Background

It is a crime for any taxpayer to intentionally fail to file a tax return that is due and is punishable by a fine of not more than $25,000 ($100,000 in the case of a corporation) or imprisonment of not more than one year.[1] However, Federal employees have a heightened responsibility to be compliant with their Federal tax obligations.[2] In 1993, the Internal Revenue Service (IRS) established the Federal Employee/Retiree Delinquency Initiative (FERDI) program to promote Federal tax compliance among current and retired Federal civilian and military employees.[3] The IRS Small Business/Self-Employed Division's Collection Inventory Delivery and Selection function is responsible for overall FERDI policy, procedures, priorities, and inventory delivery. Headquarters Collection is responsible for development of FERDI policy and procedures. All policy and procedures are approved at the executive level. Campus and Field Collection employees who handle FERDI accounts are responsible for following the FERDI collection procedures.[4]

Internal Revenue Code (I.R.C.) § 1203(b)(8) of the IRS Restructuring and Reform Act of 1998 (RRA 98) holds IRS employees to a higher expectation and responsibility for full tax compliance because the agency is primarily responsible for administering the Federal tax law.[5] For example, I.R.C. § 1203(b)(8) mandates removal of an IRS employee whose failure to file any return of tax required under the law, on or before the date prescribed, is determined to be willful. However, under I.R.C. § 6103, the IRS is prohibited from disclosing a tax delinquent employee's return information to Federal agencies outside of the Department of the Treasury (hereafter referred to as the Treasury Department). As a result, Federal agencies cannot be notified about their employees' lack of tax compliance, and employee tax delinquency rates outside of the Treasury Department are generally higher.

A FERDI taxpayer is anyone currently receiving a salary or pension from the Federal Government and who either fails to file tax returns or pay taxes owed. Taxpayers receiving survivor's annuities are excluded. Delinquent Federal taxpayers are identified by the FERDI program annually (usually in September) by matching the primary and secondary Social Security Numbers of Individual Master File (IMF) taxpayer delinquent accounts (TDA) and/or taxpayer delinquency investigations (TDI) against the following data:[6]

- U.S. Office of Personnel Management, Enterprise Human Resources Integration Data Repository.[7]

[1] Internal Revenue Code § 7203.

[2] 5 C.F.R. Part 2635.809, *Just financial obligations*.

[3] See Appendix IV for a glossary of terms.

[4] Internal Revenue Manual (IRM) 5.19.18 (Dec. 3, 2020).

[5] Pub. L. No. 105-206, 112 Stat. 685.

[6] A TDA is a balance due account, *i.e.*, where a tax return was filed for the taxpayer showing a balance due and payment of the balance due is delinquent, and a TDI is a delinquent return account, *i.e.*, where no tax return has been filed for the taxpayer). We use these terms throughout the report.

[7] An automated information system containing individual records for most Federal civilian employees.

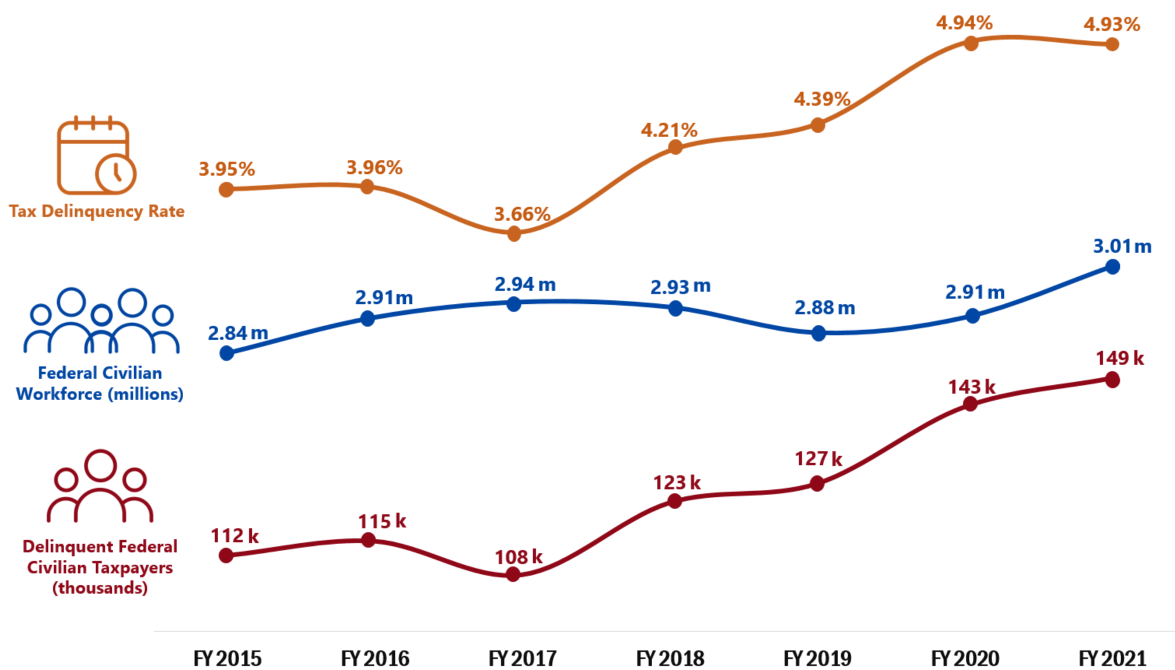
- Department of Defense military and civilian personnel records maintained by Defense Manpower Data Center.
- U.S. Postal Service employment file.
- Internal Forms W-2, *Wage and Tax Statement*, and 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

The results from the FERDI match files are disclosed in the public FERDI Annual Report.[8]

A FERDI delinquency is considered any unresolved Federal income tax in the form of an unfiled tax return (TDI) and/or a balance owed (TDA). As shown in Figure 1, using the FERDI Annual Reports, we found that the FERDI tax delinquency rate has steadily increased from Fiscal Years (FY) 2015 to 2021, with only FY 2017 showing a minor decrease.[9]

Figure 1: Federal Civilian Delinquency Rates - FYs 2015 Through 2021[10]

The FERDI tax delinquency rate has steadily increased from FYs 2015 to 2021, with only FY 2017 showing a minor decrease. Although the Federal civilian workforce increased by 6 percent between FY 2015 and 2021, there was a 32 percent increase in the number of delinquent Federal civilian taxpayers during the same period.



Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of the IRS's FYs 2016 through 2021 FERDI Annual Reports.

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[8] The IRS releases a redacted version of the report to its Media Relations function annually, and Media Relations releases it upon public request.

[9] An employee is considered delinquent if they have an unresolved Federal income tax delinquency in the form of a balance owed or an unfiled tax return. Accounts in currently not collectible, combat zone, and bankruptcy/litigation status are included. Employees in an installment agreement or pending offer in compromise status are excluded from the delinquency calculation.

[10] In August 2022, the IRS provided TIGTA the final FY 2021 FERDI Annual Report.

Although the Federal civilian workforce increased by 6 percent between FYs 2015 and 2021, there was a 32 percent increase in the number of delinquent Federal civilian taxpayers during the same period.[11] Delinquencies include both balance dues and unfiled returns.

Delinquent tax return notices for all FERDI TDI (nonfiler) delinquencies are sent to the taxpayer after identification by the IRS.[12] Letter CP 59 (*You didn't file a Form 1040 tax return*) is initially sent to the taxpayer and is generally followed by a CP 518 (*You must file your 20xx tax return*), if the taxpayer did not call or write to resolve the delinquency or did not file the delinquent return. If after one or two initial delinquent return notices are sent and the employee does not respond by filing a return or contacting the IRS, the TDI module will generally be moved into the Automated Collection System (ACS) inventory for further collection action. However, IRS employee nonfilers are specifically assigned to be worked by revenue officers in Field Collection. The term "worked" as used in this report means additional collection actions taken on the case, which can vary depending on the authorities given to particular IRS employees. For example, ACS employees can take certain actions with respect to an unfiled return, including: i) sending additional letters to the delinquent taxpayer requesting that the delinquent tax return be filed or ii) causing the matter to be referred to the Automated Substitute for Return (ASFR) program.[13]

FERDI nonfiler cases that are not resolved in the ACS may also be sent to be worked in the ASFR program. The ASFR can be an important compliance program within the IRS, depending on whether the IRS chooses to allocate scarce resources to the program and depending on how the program prioritizes casework.[14] The ASFR program determines and assesses the tax liability by securing valid income tax returns from taxpayers, or computing tax, penalties, and interest based on Information Reporting Program information submitted by payers, combined with other internally available information, but does not allow for deductions or other income about which the IRS is unaware. Additionally, some FERDI nonfiler cases are referred to the Examination function on a quarterly basis to be potentially worked using Substitute for Return procedures.

Due to the unprecedented challenges of the Coronavirus 2019 Disease pandemic (hereafter referred to as the pandemic), IRS management stated that they have been tasked with balancing compliance, revenue, inventory levels, and service. Compliance remains a focus of the IRS; however, the IRS has shifted significant resources to reduce the burden on all taxpayers and provide additional service, such as prioritizing incoming calls, to assist taxpayers in recovering from the pandemic. This challenge and the continuous shortage of FERDI enforcement personnel during the years reviewed were factors in the increasing numbers of Federal civilian nonfilers.

Although the FERDI program covers Federal civilian and military employees and retirees, this review generally focused on the IRS's efforts to address Federal civilian employees who are delinquent with filing one or more of their Forms 1040, *U.S. Individual Income Tax Return*.

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[11] Differences in percentages are due to rounding of actual numbers.

[12] Except those FERDI nonfilers whose calculated net tax assessment is below a certain dollar tolerance.

[13] IRM 5.19.18.5.8.2(3) and (4) (July 8, 2013).

[14] In TIGTA's Report No. 2017-30-078, *A Significantly Reduced Automated Substitute for Return Program Negatively Affected Collection and Filing Compliance* (Sept. 2017), we learned, among other things, that: i) due to resource constraints, the IRS had suspended the ASFR program and ii) before suspending the ASFR program, the IRS prioritized working "refund hold" cases, where refunds of taxpayers are put on hold until a prior year's unfiled return is addressed (thereby prioritizing in some cases low dollar refund holds over high-income nonfiler taxpayers).

Results of Review

More Enforcement Is Needed to Deter Willful Federal Employee Nonfilers

As previously stated, the IRS performs an annual match to identify the population of Federal civilian and military employees and retirees who have not filed their tax returns. Our analysis of FYs 2016 through 2020 match data, specific to Federal civilian employees only, identified over 42,000 Federal civilian employees who failed to file a return for two or more tax years during this period.[15] Figure 2 shows the total number of civilian employees we identified who had multiple years of unfiled returns by number of delinquent years.

Figure 2: Federal Civilian Employees With Multiple TDI Modules[16]

Delinquent Tax Years	Number of Employees
2	24,734
3	10,242
4	4,182
5	1,829
6	700
7	255
8	86
9+	19
Total	**42,047**

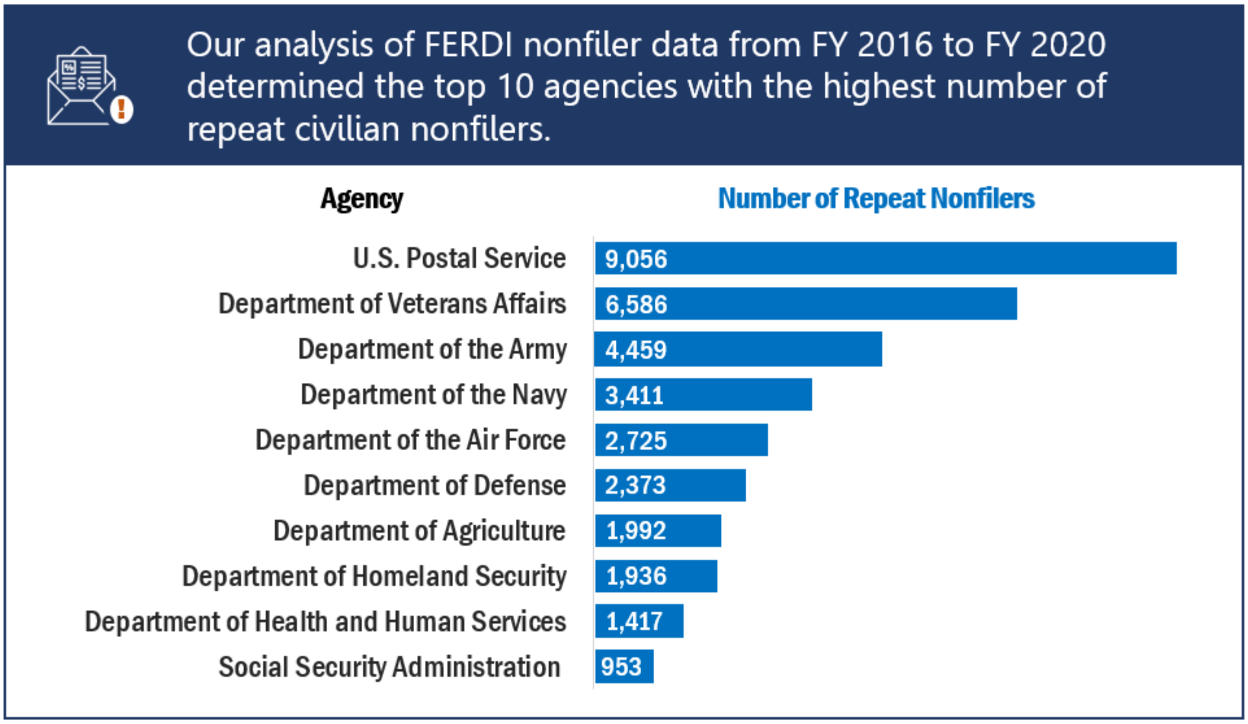
Source: TIGTA analysis of the IRS's FYs 2016 through 2020 COLL_FERDI files.

Based on Figure 2 data, Figure 3 shows the top 10 agencies with the highest number of repeat civilian nonfilers.

[15] These data represent unique Federal civilian employees who TIGTA identified as having failed to file a return for two or more tax years and are not intended to represent the current status of the delinquent modules. IRS management conducted an analysis of the 42,047 Federal civilian nonfilers TIGTA identified, which showed that as of September 19, 2022, there were 9,684 Federal civilian employees who currently had two or more unfiled returns in an open delinquent return status. We did not validate this data.

[16] Includes aged modules prior to FY 2016.

Figure 3: Top 10 Agencies With the Highest Number of Repeat Nonfilers



Source: TIGTA analysis of the IRS's FYs 2016 through 2020 COLL_FERDI files and Office of Personnel Management agency data.

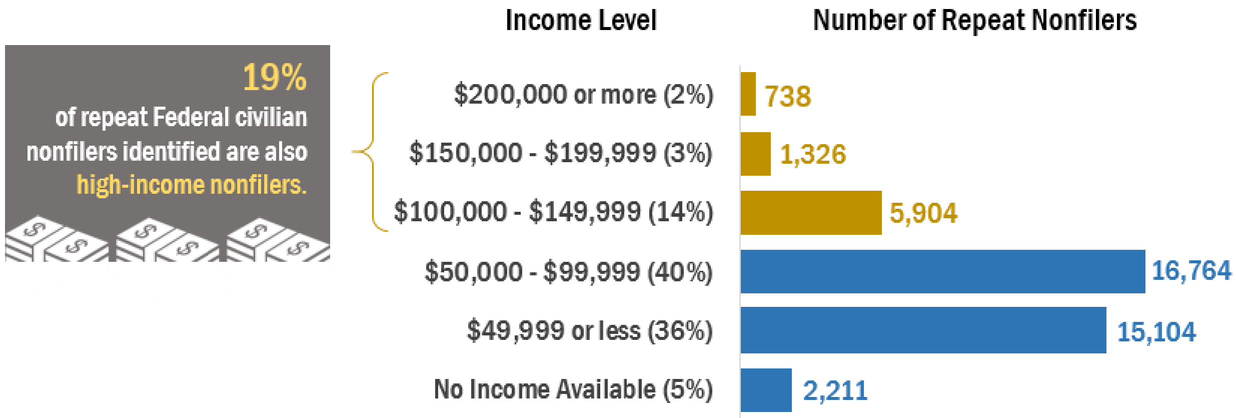
Of the top 10, the U. S. Postal Service, the Department of Veterans Affairs, and the Department of the Army had the highest rates of repeat nonfilers.

Our analysis also found that many of these employees are also high-income nonfilers. For purposes of nonfiler compliance, the IRS defines high-income nonfilers as those taxpayers with total positive income of $100,000 or more.[17] Total positive income is the sum of all positive amounts shown for the various sources of income reported on an individual income tax return and, therefore, does not include deductions or tax credits. Because there is not a simple way to identify total positive income on an unfiled return, we estimated the income for these repeat nonfilers using various sources.[18] Figure 4 shows the estimated income for the most recent unfiled tax year for each repeat nonfiler.

17 [redacted]

18 The estimated income amount comes from the most recent unfiled tax year for each repeat nonfiler employee and was populated from four separate data fields using the following source data in sequential order 1) IMF Case Creation Nonfiler Identification Program data 2) Returns Processing W-2 file, 3) Open ACS TDI file, and 4) Returns Processing Individual Tax Module file. For some of the nonfilers, we could only ascertain wage income and not total income; therefore, those nonfilers could either have a higher total income based on potential additional income from other sources, such as Form 1099 income, or lower total income based on losses, such as from sale of stocks, or a business or farm. For the 2,211 repeat nonfilers with no income available, the employee may have retired at some point from FY 2016 through FY 2020, and no longer had wage income reported.

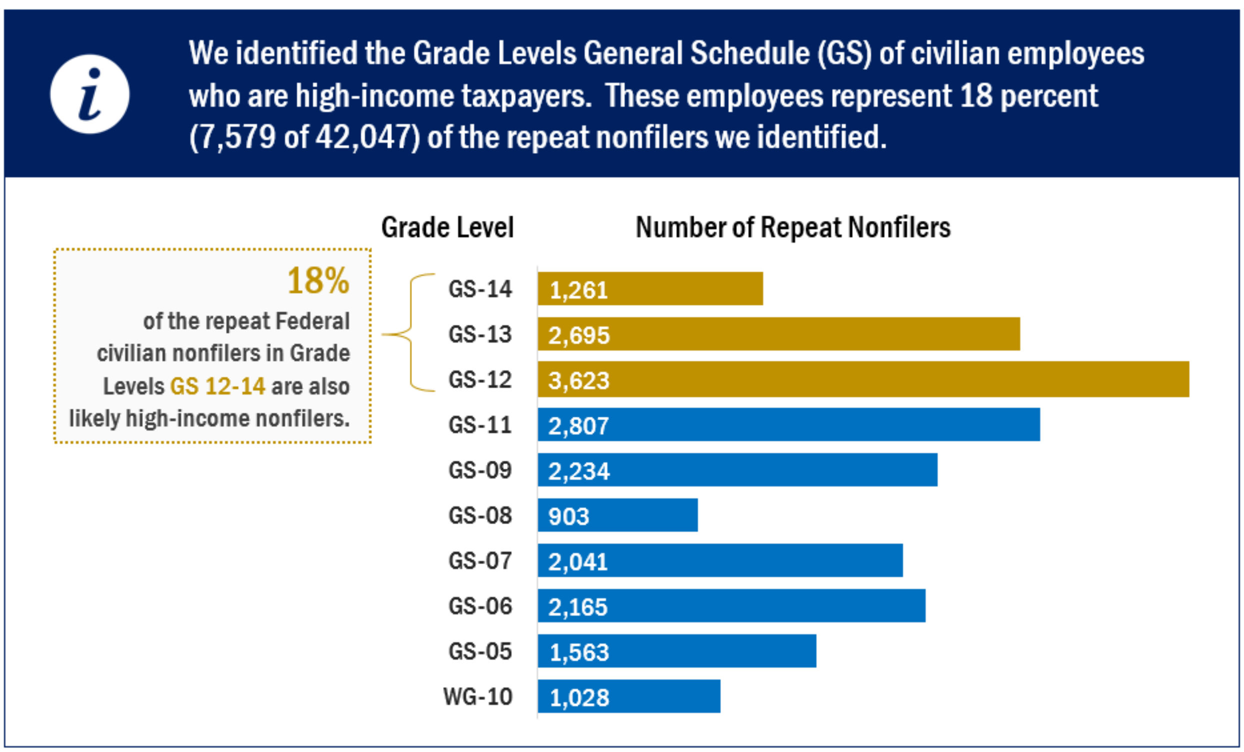
Figure 4: Estimated Income Levels of Repeat Nonfilers



Source: TIGTA analysis of the IRS provided FYs 2016 through 2020 COLL_FERDI files and TIGTA data extracts from IRS Collection Data Warehouse and TIGTA Data Center Warehouse.

We estimate that 19 percent (7,968 of 42,047) of the repeat Federal civilian nonfilers identified are also high-income nonfilers. Figure 5 provides a breakdown of the top 10 grade levels of these repetitive nonfilers.

Figure 5: Top 10 Grade Levels of Repeat Nonfilers



Source: TIGTA analysis of the IRS's FYs 2016 through 2020 COLL_FERDI files. WG = wage grade

The highlighted rows in Figure 5 (GS-12, 13, and 14 employees) are those civilian employees with incomes in the range that are most likely to be high-income taxpayers. These employees represent 18 percent (7,579 of 42,047) of the repeat nonfilers we identified.

Federal employee nonfiler cases are generally not referred to Criminal Investigation (CI) or assessed the civil fraudulent failure to file penalty

When nonfiling is determined to be willful, the IRS can work with the Department of Justice (DOJ) to pursue a misdemeanor criminal case under I.R.C. § 7203, *Willful failure to file return, supply information, or pay tax*.[19] Further review of the FYs 2016 through 2020 FERDI nonfiler data identified that [redacted] was referred to the IRS CI during that time period. IRS management cannot confirm our figure, as they do not track FERDI-specific cases that are referred to CI. However, they reviewed previous Collection Activity Reports and identified [redacted] resolved with a CI referral transaction code between FYs 2016 and 2021. IRS management cannot confirm whether additional FERDI cases were referred during that time frame.[20]

[redacted] Given limited resources, the IRS and the DOJ must consider the importance of a matter before using Federal resources for criminal enforcement. [redacted] However, multiple year intentional nonfiling of tax returns by Federal employees should in certain cases warrant criminal investigation, if for no other reason than CI will not uncover firm indications of evasion of payment, false statements, or other potential felony charges unless it investigates the cases.

Not all failure to file cases warrant a criminal tax evasion investigation; however, nonfiler cases may also be developed using the civil fraud penalty criteria. In appropriate cases, nonfilers can also be assessed additional penalties for fraudulently failing to file a tax return under I.R.C. § 6651(f) *Fraudulent Failure to File*. The standard for application of the fraudulent failure to file penalty is the same for other civil fraud penalties.[21] The penalty is 15 percent of the amount of the tax due, which increases 5 percent of the tax due every month the return has not been filed, up to maximum penalty of 75 percent of the tax due. This is significantly higher than the ordinary failure to file penalty of 5 percent, up to a maximum of 25 percent. IRS management stated that from FYs 2016 through 2021, only 28 FERDI taxpayers (54 TDI modules) were assessed fraudulent failure to file penalties under I.R.C. § 6651(f). At the time of the penalty

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[19] Willfulness is the state of mind that must be proven to establish intent. Courts have defined willfulness in criminal tax violations as a "voluntary, intentional violation of a known legal duty." *Cheek v. United States*, 498 U.S. 192, 199 (1991).

[20] Referrals can be made without the input of the CI referral transaction code. Referrals can also be made by the Examination functions.

[21] *George v. Com'r,* T.C. Memorandum 2015-158 (2015). Additionally, courts have held that the term 'fraud' as used in the statutory provisions authorizing the assessment of civil fraud penalties against taxpayers, means intentional wrongdoing on the part of a taxpayer motivated by a specific purpose to evade a tax known or believed to be owing. *Gagliardi v. U.S.*, 81 Fed. Cl. 772, 777 (2008).

assessments, 10 (35.7 percent) taxpayers were current Federal civilian nonfilers, 14 (50.0 percent) were retired military/civilian employees, and four (14.3 percent) were unknown.[22]

The IRS has procedures in place for employees to identify and process fraudulent failure to file cases; however, there is no fraud-related guidance specific to FERDI taxpayers.[23] In addition, the IRS Collection function does not have criteria or collection procedures for Federal employees who appear willful in failing to file their returns. FERDI procedures only instruct employees to refer to the Fraud Handbook in cases in which the Federal employee cannot be located and fraud indicators are present.[24] Also, there are no procedures, for example, for FERDI taxpayers whose actions may rise to the level of willful when they have multiple tax returns unfiled, have not responded to multiple TDI notices, and have a net potential balance due over a certain dollar criteria.

IRS management stated that compliance employees are trained to recognize first indications of fraud while working their cases, including all types of nonfilers. A willful FERDI nonfiler case would need to be identified by a compliance employee initially, showing the badges of fraud,[25] before a request can be made to the Office of Fraud Enforcement for assistance in case development.[26] Currently, if indicators of fraud are present on a nonfiler case, and the compliance employee's manager approves, the employee is required to request a case consultation with a fraud enforcement advisor via the Specialist Referral System. [redacted] Additionally, Field Collection does not keep track of how many requests for assistance have been made to the Office of Fraud Enforcement in the last five fiscal years for FERDI taxpayers.

Willful FERDI nonfilers are a risk to tax administration in terms of lost revenue, integrity of the tax system, and reputational damage to the Federal Government. By repeatedly not filing, these employees demonstrate important elements of willfulness under I.R.C. § 7203.[27] Additionally,

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[22] Differences in percentage total are due to rounding. [redacted]

[23] IRM 25.1.2 (Apr. 23, 2021), IRM 25.1.7 (June 10, 2021), and IRM 20.1.2 (Mar. 9, 2022).

[24] IRM 5.19.18.5.10.3(6) (Apr. 23, 2019).

[25] The badges or indicators of fraud are summarized in IRM 25.1.2.3 (April 23, 2021), such as for income, *e.g.*, omitting entire sources of income; deductions, *e.g.*, claiming fictitious deductions; books and records, *e.g.*, multiple sets of books and records; and conduct of the taxpayer, *e.g.*, failure to follow the advice of a tax professional.

[26] The Office of Fraud Enforcement assists in identifying indicators of fraud, developing enforcement recommendations and criminal fraud referrals to IRS CI, and pursuing civil fraud penalty assertions and other treatment streams to improve filing and payment compliance with current and emerging issues, when appropriate.

[27] I.R.C. § 7203, *Willful failure to file return, supply information, or pay tax*.

Federal employees: 1) take an oath of office to serve;[28] 2) have a higher duty to file tax returns;[29] 3) are being paid with taxpayer funds; and 4) in some cases may have Top Secret, Top Secret–Special Compartmentalized Information, or Secret security clearances. Willful FERDI nonfilers may continue to keep those clearances, even though an allegation or conviction for willful failure to file could disqualify them from keeping the clearance. If the IRS does not use all available enforcement actions against willful Federal employee nonfilers, these employees will continue to break the law and not face any significant consequences, all while continuing to work in their Federal jobs.

Legislation should be considered to allow the IRS to share essential delinquent employee return information with other Federal agencies

Our review found that the IRS is properly working IRS employee nonfiler cases, and FERDI data show that Treasury Department employees are the most tax compliant Federal employees. However, despite the IRS's attempts to work with other Federal agencies, overall Federal civilian tax delinquencies are increasing. As shown previously, many of these employees are repeat nonfilers and high-income taxpayers. Federal employee noncompliance persists despite the IRS's actions, Presidential directives, and congressional actions. A legislative change may be needed to help improve Federal employee filing compliance.

According to the Federal regulation on Standards of Ethical Conduct for Employees of the Executive Branch, Federal employees have a responsibility to satisfy in good faith their obligations as citizens. I.R.C. § 6103, *Confidentiality and disclosure of returns and return information*, prohibits the IRS from sharing tax return information with other Federal agencies, even the agencies' own employees. However, I.R.C. § 6103(h)(1) provides statutory authority to ensure compliance of Treasury Department employees by sharing employee tax return information within the agency. This position was affirmed with RRA 98, which included lack of tax compliance as an offence that could lead to termination of employment.

The IRS's Human Capital Office (HCO) properly removed IRS employee nonfilers whose actions were deemed willful

Our analysis found that the IRS workforce consistently achieves the lowest tax delinquency rate in the Federal Government. According to the FY 2021 FERDI Annual Report, IRS employees had a 1.35 percent delinquency rate, compared to 4.93 percent for civilian workers throughout the Federal Government.[30] Section 1203(b) of RRA 98 requires the removal of IRS employees who are found to have willfully failed to timely file their Federal tax return, or who willfully understate their tax liability. The IRS's compliance rate is likely due to the IRS's ability to take disciplinary action when employees have tax delinquencies.

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[28] 5 U.S.C. § 3331 provides that an individual elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, …., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

[29] 5 CFR 2635.809 (January 2017).

[30] Internal Revenue Service Federal Employee/Retiree Delinquency Initiative (FERDI) Annual Report Official Use Only, March 15, 2022.

Our review of 25 IRS employee nonfiler cases in Tax Years (TY) 2017, 2018, and 2019 found that the IRS took proper collection and HCO actions, including making I.R.C. § 1203(b)(8) willful nonfiling determinations of IRS employees and taking appropriate disciplinary actions. The 25 employees had 29 TDI modules as well as having total balances due of about $83,000. We reviewed these employees' collection history files and the HCO Labor Relations Automated Labor and Employee Relations Tracking System files to determine whether proper collection and disciplinary actions were taken.[31] This documentation included the conclusion of the 1203 branch consultant who is required to review the entire IRS employee case and issue a written recommendation.[32] See Appendix II for detailed steps the IRS takes for I.R.C. § 1203 investigations.

We also compared all of the IRS nonfiler penalty determinations for the 25 employees to the *IRS Manager's Guide to Penalty Determinations* and found them to be in conformity with the guidelines. Specifically, there were four willfulness determinations of delinquent IRS employees. [redacted] The remaining 21 cases were deemed nonwillful. Employee penalties for nonwillful return delinquency properly ranged from letters of Alternative Discipline, Admonishment, or Caution, to suspensions without pay from one to three business days.

Despite the IRS's attempts to work with other agencies, Federal civilian nonfilers and delinquencies are increasing

The IRS works with Federal agencies to generally educate them on the importance of Federal employee tax compliance, without providing information such as the names of employees with delinquent tax obligations. For example, all Federal agencies may request the FERDI Annual Report to check their employees' overall annual tax compliance rate. The annual report includes a "Delinquency Rate Comparison" by Federal agency for the current and prior fiscal year. In addition, the IRS has a FERDI outreach program to help Federal agencies improve their delinquency rates. Each year, Federal agencies receive a letter from the IRS summarizing their employee tax delinquencies by number and dollar amount, with a comparison to the prior year. The letter concludes with an offer from the IRS to meet with agency personnel to review and discuss their tax compliance performance and remedies. From November 2019 through August 2021, the IRS met, either in person or via Zoom, with nine agencies to discuss FERDI initiatives and the importance of Federal employees' compliance with their tax obligations. In addition, the IRS e-mailed pre-filing season and filing season flyers to Federal agencies that provided useful filing tools, tips, and links that agencies could share with their workforce.

In June 2008, the President issued Executive Order 13467, which was amended in January 2017, to ensure Governmentwide uniformity and fairness for applicants, appointees, and employees

[31] The Automated Labor and Employee Relations Tracking System tracks violations and related disciplinary actions.

[32] The branch consultant is an IRS senior Labor Relations specialist who reviews I.R.C. §1203(b)(8) and (b)(9) cases for both willful and nonwillful determinations.

when determining suitability for employment in the Federal Government.[33] While the Executive Order requires tax compliance by Federal employees, the IRS cannot share return information of tax noncompliance information with other Federal agencies.

The IRS has attempted to work with other Federal agencies since the Executive Order was issued to improve the Federal deliquency rate; however, due to statuatory limitations, including the inability to share return or return information with those agencies, no recommendations have been instituted to improve the delinquency rate. For example, in March 2011, the Human Capital Officers Council met to develop strategies to reduce the number of Federal employees with delinquent tax liabilities.[34] Agency heads discussed the Federal employee delinquency rate in communications related to tax filing deadlines. Despite those efforts, the percentage of Federal employees with delinquent tax liabilities continued to increase over the years.

The IRS also held a working group session in Calendar Year 2014 with 20 outside agencies, including but not limited to Department of State, Director of National Intelligence, and Federal Bureau of Investigation, to discuss the execution of the President's executive order. The IRS worked with other Federal agencies in a task group to look at the provisions within I.R.C. § 6103 that related to the background check process. However, after consultation with other Federal agencies, no recommendations were made. This decision was based on the fact the IRS is the only agency authorized to enforce tax administration.

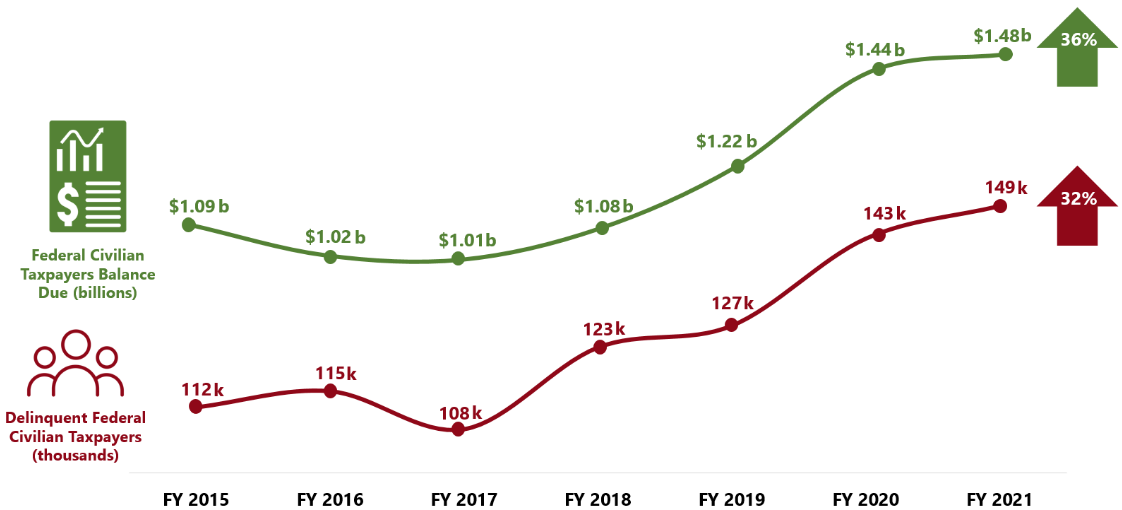
More recently, in October 2019, the IRS met with the Department of Defense about the ability to perform tax compliance checks as part of its background investigations. On October 1, 2019, the Department of Defense initiated steps to remove the responsibility for employee background checks from the Office of Personnel Management and started performing its own employee background checks. However, this tax information was needed only for the Department of Defense to complete Federal background investigations. Tax compliance was not discussed.

While Figure 1 in this report shows the Federal civilian delinquency rates, Figure 6 details the number of employees and the balance due amounts owed from FY 2015 through FY 2021.

[33] Executive Order (EO) 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information* (June 2008). In January 2017, EO 13764 amended EO 13467 and retitled part 2, *Vetting Enterprise, Reciprocity, Continuous Performance Improvement, and Governance*. EO 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 to Modernize the Executive Branch–Wide Governance Structure and Processes for Security Clearances, Suitability, and Fitness for Employment, and Credentialing, and Related Matters* (January 2017).

[34] House Rept. 114-73 to Accompany H.R. 1563 Federal Employee Tax Accountability Act of 2015.

Figure 6: Delinquent Federal Civilian Employee Counts and Taxes Owed - FY 2015 Through FY 2021



Source: IRS FERDI Annual Reports for FYs 2015 through 2021.

In FY 2021, delinquent Federal civilian taxpayers owed nearly $1.5 billion in unpaid taxes. The data show that from FY 2015 through FY 2021, there was an increase of 32 percent in the number of Federal civilian employees with delinquencies, while their related balances due increased by almost 36 percent.[35] In total, over the seven years, the FERDI civilian employee population grew by over 36,000 delinquent employees, while the balances due grew by over $389 million.

Since 2015, numerous congressional bills have been introduced to improve Federal employees' tax compliance.[36] However, no proposal has passed both chambers of Congress and become law. In recent testimony, the IRS Commissioner, in response to a question pertaining to Federal contractor tax compliance, expressed support for a change to I.R.C. § 6103 allowing the IRS to share information with Federal agencies pertaining to a Federal contractors' tax compliance.[37] A similar approach to information sharing with respect to Federal civilian employee tax compliance with the appropriate Federal agency may improve Federal employee tax compliance.

Repeatedly not filing a tax return when a taxpayer is required to do so is a brazen form of noncompliance. Federal civilian employees with tax delinquencies have a legal and ethical requirement to be current with their tax obligations. While the employees themselves know they have an outstanding delinquency, the agencies they work for do not know who these individuals are due to I.R.C. § 6103 statutory limitations. Additionally, the IRS is not using all enforcement tools available for willful or grossly negligent Federal civilian nonfilers and should give a higher priority to addressing this noncompliance by identifying these Federal employees and working the cases for indications of fraud and willful nonfiling.

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[35] Differences in percentages are due to rounding of actual numbers.

[36] H.R. 1563, *Federal Employee Tax Accountability Act of 2015*; H.R.396 - *Tax Accountability Act of 2017*; and S. 489, *Federal Employees and Retirees with Delinquent Tax Debt* Initiative (FERDI) Act (2021).

[37] Senate Appropriations Hearing on IRS's FY 2023 Budget Request (May 3, 2022).

The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should:

Recommendation 1: Work with the Office of Fraud Enforcement and CI to enhance Internal Revenue Manual (IRM) procedures and develop annual refresher training to the FERDI staff that can be used to develop potential fraud referrals.

> **Management's Response:** IRS management agreed with this recommendation. The IRS will revise FERDI IRM 5.19.18 to include the fraud checklists provided in related IRM sections. In addition, headquarters FERDI staff will work with the Office of Fraud Enforcement to develop and deliver a module on fraud referrals training as part of the overall annual FERDI training.

Recommendation 2: Revise IRM 5.19.18 to refer employees to the Fraud Handbook for fraud and/or willfulness procedures as soon as indications of fraud are present in any FERDI nonfiler case.

> **Management's Response:** IRS management agreed with this recommendation. The IRS's Collection Inventory Delivery and Selection will revise FERDI IRM 5.19.18.5.10.3 (6) to provide additional clarity and enhanced guidance on referring employees to the Fraud Handbook for fraud and/or willfulness procedures, as soon as indications of fraud are present in any FERDI nonfiler case.

Recommendation 3: Conduct an annual analysis on open FERDI cases that have multiple nonfiling years and determine the next course of action dependent upon this analysis and recommendations from the Office of Fraud Enforcement. Cases that are deemed to have indicators of willfulness and/or fraud should be referred to CI.

> **Management's Response:** IRS management agreed with this recommendation. The IRS will conduct an analysis on the open FERDI cases that have multiple nonfiling years and confer with the Office of Fraud Enforcement to determine the appropriate next steps. Cases that are deemed to meet criminal referral criteria will be considered for referral to IRS CI. The results of this analysis will be documented in report format.

The Chief, CI, should:

Recommendation 4: Work with the DOJ to develop referral criteria for Federal employee nonfilers with multiple years of unfiled tax returns, including standalone nonfiler cases that can be investigated and prosecuted where warranted.

> **Management's Response:** IRS management disagreed with this recommendation and stated that CI has a well-established process to coordinate the referral of cases to the DOJ that includes ongoing and regular collaboration on case prioritization and referral with all of the judicial districts. CI receives, evaluates, and investigates fraud referrals from the civil divisions after there have been established affirmative acts or firm indicators, or "badges," of fraud. CI then uses the results of those investigations to make referrals to the DOJ. When choosing whether to refer a case to the DOJ, CI will refer to each district's unique process for case referral. This would include referrals pertaining to Federal employee nonfilers with multiple years of unfiled tax returns. The DOJ does not accept or deny cases for prosecution based on generalized sets of referral criteria.

Rather, the process for determining which cases CI will refer to the DOJ requires district-level collaboration and the exercise of experience-informed professional judgment.

Office of Audit Comment: Our review showed that from FY 2016 to FY 2020, the IRS referred [redacted] to CI. However, multiple year intentional nonfiling of tax returns by Federal employees should, in certain cases, warrant criminal investigation, if for no other reason than CI will not uncover firm indications of evasion of payment, false statements, or other potential felony charges unless it investigates the cases. We identified over 17,000 repeat Federal civilian employee nonfilers who had not filed an income tax return for three or more years. Yet, these employees continued in their Federal jobs, with pay and benefits, without adequate IRS enforcement scrutiny.

The IRS Commissioner should:

Recommendation 5: Share this report and recommendation with the Treasury Department Office of Tax Policy to consider a legislative proposal to amend I.R.C. § 7203 by replacing "misdemeanor" with "felony," and additionally, by replacing the time for potential imprisonment from "one year" to "two years," thereby making willful nonfiling a felony.

Management's Response: IRS management agreed with this recommendation. The IRS will share TIGTA's report and this specific recommendation with the Treasury Department Office of Tax Policy. The IRS does not formally propose legislation.

Recommendation 6: Share this report and recommendation with the Treasury Department Office of Tax Policy to consider a legislative proposal to amend I.R.C. § 6103 and any other required provisions of the law, thereby allowing the IRS to share essential return information with other Federal agencies upon the IRS's identification of a current Federal employee who is tax delinquent.

Management's Response: IRS management agreed with this recommendation. The IRS will share this report and TIGTA's specific recommendation with the Treasury Department Office of Tax Policy. The IRS does not formally propose legislation.

Resource Limitations and Management Priorities Led to Backlogs and Reduced Workdays

Our analysis of FYs 2016 through 2020 FERDI match data shows that the average number of TDI modules identified for Federal civilian employees each fiscal year was almost 65,000, representing an average of over 46,000 Federal civilian nonfilers. We found that approximately 26,000 (41 percent) of TDI modules are carried over to the next year's FERDI match. Figure 7 shows the number of TDI modules that have carried over for two or more years without resolution.

Figure 7: Number of Federal Civilian TDIs Carried Over Two or More Tax Years – FYs 2016 Through 2020

Number of Years a Module Carried Over	Number of Modules	Number of Employees
2	34,237	28,110
3	16,585	14,191
4	6,058	5,355
5	4,419	3,888
Totals	61,299	51,544

Source: TIGTA analysis of the IRS's FYs 2016 through 2020 COLL_FERDI files.

We identified over 61,000 TDI modules in FYs 2016 through 2020 FERDI data that had carried over in the annual FERDI matches from two to five years, without resolution. For example, there were 4,419 modules originally identified in the FY 2016 annual match that carried over each year from FY 2016 to FY 2020 and were still in TDI status.

Further analysis of the status of the more than 61,000 TDI modules, as of May 2021, showed that taxpayers had filed their delinquent returns in approximately 29 percent of these modules and had fully paid balances or had balances that were in the process of being collected by the ACS.[38] Another 41 percent of these modules were closed as either unable to locate, not liable, or shelved; were being reviewed in Examination or CI; or were waiting for another tax period to post to the Master File.[39] However, about 30 percent (over 18,000) of the 61,000 modules were still in unresolved TDI status.

Figure 8 shows that we further analyzed the FYs 2019 and 2020 FERDI TDI data, and as of May 2021 found that there were many older tax years that were still in TDI status.

Figure 8: Number of TDI Modules by Age Range

Age of Delinquent Return	Count
3 years	9,127
4 years	4,653
5 years	1,223
6 years	2,197
7 years	271
8 years	112

[38] The ACS collects balances due for FERDI taxpayers mainly through the Federal Payment Levy Program.

[39] IRM 5.19.18.4(11) (Feb. 06, 2020); IRM 5.19.18.5.10.3(6) (Apr. 23, 2019).

Age of Delinquent Return	Count
9 years	128
10+ years	371
Total	18,082

Source: TIGTA analysis of the IRS's FYs 2019 through 2020 COLL_FERDI files with Master File data from May 2021.

In total, over 18,000 TDI modules identified were three years old or more, with a maximum age of 36 years.[40]

When questioned about this data, IRS management provided us with an internal analysis document of FERDI TDI inventory, dated July 2021. The document shows that from FY 2017 to FY 2020, FERDI TDI inventory in the ACS had more than doubled from 36,530 in FY 2017 to 85,131 in FY 2020, an increase of 133 percent.[41] As of May 2021, Federal civilian nonfilers made up 27 percent of ACS nonfiler inventory by FERDI category, while the other 73 percent were current military or retired civilian and military employees. IRS management explained the increase in ACS inventory was, in large part, due to the lack of resources and the need to refocus on answering taxpayer calls due to the unprecedented challenges faced during the pandemic.

Although considered priority work, the IRS has not adequately prioritized FERDI nonfiler cases in the ACS and the ASFR program

During our review, we interviewed five ACS Collection managers and five ACS Collection representatives who were experienced in working FERDI inventory and asked them whether FERDI nonfiler inventory was being worked as a priority. Three of the managers and five of the representatives confirmed that FERDI nonfiler inventory was not being worked as a priority, and all managers and representatives stated that TDI inventory in general was not worked timely or regularly in the ACS. In addition, the IRS's internal analysis document showed where FERDI inventory backlogs and inadequate prioritization in both the ACS and the ASFR program have been occurring.

Federal employee delinquent accounts that are not resolved in the initial delinquency notice stage are generally assigned to the ACS to be worked. The ACS Jacksonville, Florida, call site is the main ACS site that answers telephone calls and works manual inventory of FERDI taxpayers. FERDI calls on ACS accounts can also be handled by employees in the Atlanta, Georgia, and Seattle, Washington, call sites. When a FERDI taxpayer calls in to resolve their account, IRS computer systems can identify if the account has a FERDI indicator and can route the call to ACS employees in one of the three call sites.

ACS priority programs include High-Income Nonfilers, International, Payroll Trust Fund Taxes, FERDI, and general programs. According to IRS procedures, ACS work priority generally falls

[40] Tax years older than eight years are generally not in active collection status.

[41] These inventory amounts are a snapshot in time, and are influenced by external factors.

into two categories: i) immediate demand (customers calling in) and ii) delayed demand (inventory processing).[42] Cases in the immediate demand category are prioritized weekly by the Collection Inventory Delivery and Selection function. This work is dependent on the types of notices the ACS sends out and the resulting number of taxpayer calls expected to come in. According to management, incoming taxpayer calls greatly exceed the ACS call centers' capacity. Cases in the delayed demand category are manually worked inventories that need to be processed by ACS employees. Inventory processing work in the ACS uses a priority scheme based on a combination of factors, such as case priority, current organizational program needs, risk categories, and available staff to work the inventory. Until recently, ACS inventory, which includes FERDI nonfiler cases, was worked only as personnel/time permitted.

FERDI standalone TDIs are worked only one day per quarter

IRS management's internal analysis document also showed that as of May 2021, there were approximately 15,000 standalone FERDI TDIs in inventory. However, as of the week ending November 29, 2021, standalone inventory totaled 14,929 TDIs, indicating that the IRS was not working standalone FERDI cases as a priority.[43]

When FERDI TDIs are moved into ACS inventory, they are separated into different inventory groupings or "buckets." FERDI standalone TDIs coming into the ACS are placed into inventory buckets for standalone TDIs. The TDIs in combination with TDA modules (combo cases) are placed into different inventory buckets. Standalone TDI inventory is a manual inventory bucket that requires an ACS collection representative to take action on the case. When a FERDI standalone TDI is worked in the ACS, collection representatives take the following actions:

- The account is reviewed by the collection representative to determine if other TDA modules exist.
- If no other TDA modules exist, the representative sends letter LT 26, *We Have No Record Of Receiving Your Tax Returns*, to the taxpayer, which gives the taxpayer 10 calendar days from the date of the letter to respond.
- If the taxpayer does not respond, the representative will attempt to make an outbound call to the taxpayer if a telephone number is available.

TDIs that remain in standalone inventory for more than 180 calendar days from initial assignment to the ACS and have no follow up by the collection representative, or the follow up has been expired for more than 60 calendar days, are systemically reassigned to the ASFR program.

The Headquarters Collection function decides and directs ACS management on when and how much of ACS manual inventory (which includes FERDI standalone TDIs) ACS staff will work. Until recently, ACS collection representatives worked manual ACS inventory only when time permitted. Headquarters Collection provides a weekly list of manual inventory to ACS management to be worked on a daily basis, which is worked in priority order when collection

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[42] IRM 5.19.5.1.6 (Nov. 23, 2020).

[43] This sentence does not imply the IRS worked only 71 FERDI TDI cases between May and November 2021. However, these inventory figures suggest that the lack of prioritization has resulted in the IRS closing slightly more FERDI inventory than what they received.

representatives are available to work it. We asked IRS management for a report to show the amount of FERDI TDI standalone inventory that had been worked since FY 2017. Management provided us with five daily ACS inventory snapshots, ranging from August 2018 through November 2021.[44] We reviewed the priority order of inventory that was listed to be worked each business day and found that, while FERDI standalone TDI inventory was included on each of the lists, that inventory was the tenth or last priority in the FYs 2018 and 2019 lists, but moved up to sixth (of eight) priority in the FYs 2020 and 2021 lists. In addition, we identified that, out of the five daily ACS inventory snapshots provided, FERDI inventory was only worked on two of the inventory days.[45]

During our review, the IRS started to work the inventory backlog of standalone TDIs in October 2021 by sending weekly batches of LT 26 letters to those FERDI taxpayers. As of January 2022, the IRS had sent approximately 13,900 notices and stated that it plans to monitor and analyze the taxpayers' responsiveness to the notices. We proposed to the IRS that making the LT 26 letter issuance a systemic rather than manual process would help move the cases along faster, without having to wait until a collection representative is available to take action on the case. IRS management stated that depending on the notice results, they will consider adopting the recommendation. Management estimates they will have LT 26 letter results for the 13,900 cases in FY 2023.

The IRS also expanded ACS manual inventory work time during our review, from whenever collection representatives were available, to one day per quarter.[46] While this is a slight improvement, it is not yet known whether this policy will begin to decrease FERDI inventory. In addition, we believe more could be done to ensure that this work is a priority. Prioritizing this work one day per quarter is a substantial cutback from working FERDI inventory one day every three weeks, as was reported by TIGTA in a report on the FERDI program in FY 2015.[47] During that time, the IRS had a dedicated group of employees in the IRS Jacksonville Campus who worked only FERDI inventory. IRS management stated that in October 2016, the ACS took over answering Accounts Management balance due calls. As a result, the resources were not available to work FERDI TDI inventory. This caused FERDI TDI inventory to increase by 133 percent (from 36,530 to 85,131) from FY 2017 to FY 2020, as discussed previously.

Balance dues in FERDI combo cases are prioritized over delinquent returns

There is a different process used to work combo cases, when a taxpayer has both a balance due and delinquent return in ACS inventory. During our interviews with IRS management, we determined that FERDI TDIs in combo cases are generally not addressed by the ACS and are not a priority. For combo cases, the IRS prioritizes the balance due and addresses it first before addressing the TDI piece.

When a combo case is moved into ACS inventory, it is assigned to the inventory bucket for initial Federal Payment Levy Program (FPLP) processing. This process attempts to match the TDA

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[44] The five inventory days provided by IRS management were August 6, 2018, May 20, 2019, October 21, 2020, June 10, 2021, and November 29, 2021.

[45] A total of 119 FERDI TDI cases were worked on those two inventory days.

[46] As of the second quarter of FY 2022, the IRS had paused the one day per quarter manual inventory workday.

[47] TIGTA, Report No. 2015-30-051, *Most Federal Employee/Retiree Delinquency Initiative Cases Are Resolved With the Collection of Revenue; However, Some Program Improvements Can Be Made* (June 2015).

module in the combo case to any Federal payments the taxpayer may have and sets up an FPLP levy. An FPLP levy takes up to 15 percent of the employee's Federal income to pay the balance due. When combo cases are matched to the FPLP and levy payments are received, the cases move into one of two inventories where they are systemically monitored.[48] Some Federal taxpayers will contact the IRS in response to the FPLP levy and when they do, according to IRS management, over one-half of these callers resolve at least one of their delinquent returns. However, any remaining combo TDI modules remain in TDI status and the delinquent return is generally not pursued until the TDA is fully paid. This means the remaining unresolved TDIs could stay in the ACS systemically monitored inventory for years without being addressed.

When combo cases are being systemically monitored, the taxpayer is sent, at a minimum, an annual LT 39, *Reminder Notice*, and may get additional letters based on the priority. However, the LT 39 notice only addresses overdue tax and does not mention the delinquent return. Also, in a situation where an FPLP levy stops, combo cases will move from the systemically monitored inventory to a manual inventory. Once in manual inventory, ACS employees may take action on TDIs in combo cases; however, as previously discussed, ACS manual inventory is worked only one day per quarter.

IRS management explained that there is a process the IRS uses to refer the TDIs that are in the systemically monitored inventories to Examination on a quarterly basis, where they are worked using Substitute for Return procedures.[49] For example, the IRS referred over 22,000 FERDI TDI modules to Examination in FY 2020; however, IRS data show that less than 1 percent of those cases were actually worked by Examination. When we asked how many of the 22,000 TDIs were from combo cases, IRS management was unable to provide the information. Management explained that because balance dues are the driving factor in combo cases, TDI modules are not distinguished on any reports they produce.

As of October 4, 2021, the IRS reported approximately 16,000 FERDI TDA and TDI modules that were being systemically monitored in the ACS. However, the IRS does not know how many of those modules are combo cases. Additionally, the IRS stated it does not keep track of the total number of TDIs in FPLP processing inventory buckets. Therefore, we cannot determine the number of Federal employees' TDIs that are not being addressed.

When the IRS does not work to resolve the delinquent return in conjunction with the balance due account, it allows a Federal employee to retain Federal employment, potentially for many years, even though they are failing the suitability test for Federal employment.[50]

[48] The systemically monitored F2 inventory contains cases where the FPLP levy will full pay the balance due within the Collection Statue Expiration Date. The systemically monitored F3 inventory contains cases where the FPLP will not full pay the account within the Collection Statue Expiration Date.

[49] IRM 5.19.18.5.8.2(3) (July 8, 2013).

[50] In June 2008, the President issued Executive Order 13467, which was amended in January 2017, to ensure Governmentwide uniformity and fairness for applicants, appointees, and employees when determining suitability for employment in the Federal Government. Suitability refers to identifiable character traits and conduct sufficient to decide whether an individual is likely or not likely to be able to carry out the duties of a Federal job with appropriate integrity, efficiency, and effectiveness. Suitability is distinguishable from a person's ability to fulfill the qualification requirements of a job as measured by experience, education, knowledge, and skills. However, failure to timely file or timely pay taxes is not a sole deciding factor in a suitability determination.

FERDI TDIs have not been a priority workstream in the ASFR program

IRS management's analysis of FERDI TDIs also showed an inventory backlog of approximately 104,000 TDI modules assigned to the ASFR and Substitute for Return inventory (as of May 2021), which were not worked due to a lack of prioritization.[51] The internal analysis document explained that Federal employee TDIs were not on the ASFR program's priority list because ASFR inventory selection was limited to only eight priority buckets due to ASFR legacy programming limitations. Because FERDI TDIs had not been categorized as an ASFR business need priority, they were not part of those eight priority buckets, and the ASFR program did not have the ability to select FERDI TDI inventory. Consequentially, FERDI TDI inventory has continued to grow since FY 2017.

As discussed previously, the TDIs that remain in standalone inventory for more than 180 days from initial assignment to the ACS and have no follow up by the collection representative or the follow up has been expired for more than 60 days are systemically moved into the ASFR program for further treatment. Once the TDIs have moved into ASFR inventory, the program systemically selects cases to be worked based on priority. If selected to be worked, the ASFR program sends out Letter 2566, *Proposed Individual Income Tax Assessment*, informing the taxpayer that they have 30 calendar days to 1) file the return, 2) consent to the assessment (calculated in the letter based on employer income information on file), 3) explain why a return is not required to be filed, or 4) appeal the proposed assessment. If the taxpayer does not respond, the ASFR will send out a Statutory Notice of Deficiency to the taxpayer. The ASFR will make the tax assessment if no response is received to the Statutory Notice.

Procedures show that the ASFR program prioritizes refund hold, high-income nonfilers, and net tax due of [redacted] or more when selecting cases to work.

The IRS's analysis also reflected that FERDI TDI cases could easily be incorporated into the ASFR schedule with minimal impact to available resources. During our review, the IRS worked with ASFR program management to return Federal employee nonfilers to priority order. A programming fix was implemented to add FERDI TDIs as a priority line in ASFR inventory, which gives the ASFR program the ability to select and work the TDIs. FERDI TDIs are now third in ASFR priority order behind refund hold and high-income nonfiler cases.

IRS management later stated that work on these FERDI TDIs in the ASFR program was started in September 2021. However, management could not provide information on how many FERDI TDIs have been worked since September 2021 due to the ASFR system's limited ability to query specific data.[52] The data that management was able to provide showed that 9,344 FERDI TDIs were selected by the ASFR program between May 4, 2021, and April 19, 2022, and that 7,728 TDIs were closed by the ASFR program during that period. Our review of the May 2022 Collection Activity Report shows that ASFR/Substitute for Return FERDI inventory has decreased slightly from 103,812 modules in May 2021 to 97,803 modules in May 2022, a 5.8 percent decrease.

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[51] The 103,812 FERDI TDIs contain Federal civilian and military employees and retirees. Modules assigned to the ASFR on the IDRS/IMF include non-selected modules, work in progress modules, and modules completed prior to May 2021 that were still in the balance due treatment stream. ASFR assignment changes only after initial balance due notices are completed and cases are then assigned to the next treatment stream.

[52] IRS management stated that the ASFR is a flat file that does not include database capabilities for ad hoc queries.

According to IRS management, the ability to work ASFR cases has been affected by limited resources and, more recently, due to providing staff to the Wage and Investment Division to help in processing the IRS tax return backlogs. Without the staffing and resources the IRS needs, it is less likely these FERDI ASFR cases will be started and worked.

Some FERDI nonfiler cases were shelved in error

From our review of the 61,299 TDI modules that carried over in the FERDI match for two or more tax years (see Figure 7), we identified that the IRS had shelved 1,463 FERDI modules. Approximately 754 of the modules were closed by National Headquarters as Shelved - Currently Not Collectible [689 modules] or Shelved – Combat Zone (65 modules). The remaining 709 modules were closed as shelved by the Inventory Delivery System via Integrated Data Retrieval System (IDRS) Access.

When the IRS shelves delinquent modules, they are removed from active collection inventory. According to IRM procedures, FERDI nonfiler module(s) should not be closed as shelved or unable to locate. Management stated that if the employee is unable to resolve a FERDI TDI, procedures instruct them to reassign the TDI to the standalone TDI inventory after input of the Currently Not Collectible transaction. Any attempt to input a shelved disposition on a FERDI module using the IDRS is blocked. This block was implemented in July 2007; however; management's review of these cases showed that the block is not working.

IRS management explained that the majority of the cases we identified as Shelved – Currently Not Collectible were shelved correctly because the shelving transaction cycle occurred before the account was coded as FERDI or after the account was no longer coded as FERDI.[53] However, management acknowledged that after their review of the 1,463 modules, they determined that 176 were shelved in error, usually by employees working the telephones in ACS sites other than the main Jacksonville site.

In addition, these shelving errors were occurring because the Master File system block that prevents FERDI Currently Not Collectible modules from being reassigned to FERDI standalone TDI inventory was not working. Management stated that they will work on a programming fix to correct this and will update the IRM procedures to help prevent this problem.

Shelving FERDI TDIs is not consistent with IRS procedures that FERDI cases are not to be closed as shelved. If FERDI nonfiler cases are incorrectly shelved and not timely followed up and resolved, then some Federal employees may continue to be employed contrary to suitability requirements.

Federal employee nonfiler TDI creation for TYs 2019 and 2020 is delayed due to the pandemic

During our review, IRS management stated that the IMF Case Creation Nonfiler Identification Process (CCNIP), normally run in October after the tax filing season is over, had not been run for TYs 2019 and 2020. When the IMF CCNIP does not run as scheduled, it also affects the identification of FERDI nonfiler cases.

The IMF CCNIP is used to identify individual nonfilers each tax year. This process creates a list of taxpayers who have not filed their tax returns by matching returns filed against third-party

[53] We did not verify whether the FERDI indicator was present before and after the modules were shelved.

information, such as a Form W-2, to taxpayer filing requirement information. A correlation is conducted using the assimilated data to check for nonfilers and a "potential nonfiler" module is created. The data are then filtered to drop taxpayers for reasons such as a spouse filed the joint return or the taxpayer is deceased. Using this potential nonfiler data, the FERDI TDIs are identified through the FERDI annual match to employee records, as described previously. If, for some reason, the IMF CCNIP process does not run, the FERDI TDI cases for the previous tax year will not be identified in the FERDI annual match.

IRS management explained that, due to the pandemic, a decision was made to pause the IMF CCNIP process in order to assist with the backlog of unprocessed tax returns and because of limited resources available to work nonfiler cases. Later in our review, the IRS stated it partially ran the TY 2019 IMF CCNIP process specifically for FERDI taxpayers. As a result, the IRS took collection action and sent initial return delinquency notices (CP 59) to those taxpayers. However, as of April 2022, the IMF CCNIP process for TY 2020 tax modules had not been run to allow time for processing of the pandemic-related backlog of tax returns.

Our analysis of FERDI data for FYs 2016 through 2020 identified, on average, 27,931 new TDI modules for Federal civilian taxpayers during the IRS's annual FERDI match. If the IMF CCNIP process for TY 2020 is not completed, then the IRS will not know and be unable to take compliance actions on potentially thousands of Federal employee nonfilers for TY 2020. In addition, the FY 2020 and FY 2021 FERDI annual reports will understate the delinquency rate for Federal employees.

The IRS's lack of prioritization of nonfiler cases is not new. Balances due are generally considered a higher priority for the IRS over unfiled returns. However, an IRS Research Study concluded that the TDI nonfiler program would be the most cost effective activity for the IRS to produce revenue.[54] In the normal course of the collection process, automated processes make addressing balances due easier, especially with the systemic FPLP levy process for Federal employees. Nonfiler cases are a form of brazen noncompliance by taxpayers who are required to file and promptly addressing FERDI nonfiler cases should be a priority. FERDI taxpayers have heightened tax compliance responsibilities, and it is important for the IRS to prioritize unfiled returns wherever they may be in the collection process.

The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should:

Recommendation 7: Prioritize all FERDI TDA and TDI work at the designated campus site. Additionally, as resources and circumstances permit, FERDI Staff in Jacksonville should give a top priority to answering FERDI calls and working FERDI inventory.

> **Management's Response:** The IRS agreed with this recommendation. As resources permit, Collection Inventory Delivery and Selection and Campus Collection will ensure that FERDI balance due and delinquent return cases are worked as a top priority. A resource feasibility assessment will be conducted to make the determination.

[54] NATIONAL TAX ASSOCIATION, *The Impact of the IRS on Voluntary Tax Compliance: Preliminary Empirical Results*, by Alan H. Plumley, Technical Advisor, IRS National Headquarters Office of Research, 95th ANNUAL CONFERENCE ON TAXATION Orlando, Florida, November 14 - 16, 2002.

Recommendation 8: Consider systemically sending the taxpayer an ACS LT 26 within 30 days of the case moving into standalone TDI inventory.

Management's Response: The IRS agreed with this recommendation. IRS Information Technology will implement programming changes to systemically send LT 26 letters to taxpayers with specific standalone TDI case criteria.

Recommendation 9: Add verbiage to the ACS LT 39 (*Reminder Notice*) that includes the outstanding TDI and how the taxpayer can resolve it.

Management's Response: The IRS agreed with this recommendation. The IRS will make revisions to LT 39 that will include verbiage to address outstanding TDI issues and resolutions.

Recommendation 10: Implement a programming fix to ensure that FERDI TDIs are properly blocked when a shelved transaction code is being used. Additionally, update IRM 5.19.17 to improve instructions when working FERDI accounts to reduce the risk of FERDI accounts being shelved incorrectly.

Management's Response: The IRS agreed with this recommendation. The IRS will work to address the programming issue to ensure that FERDI TDIs are properly blocked when a shelved transaction code is input. In addition, the IRS will update the Currently Not Collectible Unable to Pay-Hardship procedures in the IRM.

Recommendation 11: Complete IMF CCNIP processing for TY 2020 as soon as a determination has been made that all TY 2020 returns have been processed.

Management's Response: The IRS agreed with this recommendation. The IRS stated that these TY 2020 employee nonfiler cases have been identified, and TDI case creation will start when Wage and Investment Division, Accounts Management and Submission Processing, clears up the backlog of unprocessed income tax returns and correspondence.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS is effectively addressing Federal employees who fail to file their tax returns. To accomplish our objective, we:

- Obtained an understanding of the Federal employee nonfiler program. We documented the process the IRS uses to identify the general nonfiler population and how it is used to identify the Federal employee nonfiler subpopulations of civilian and IRS nonfilers.
- Validated the IRS match file (COLL_FERDI) data for FYs 2016 through 2020 for Federal civilian and IRS employee nonfilers. We tested the accuracy of a statistical sample of the COLL_FERDI files to the IDRS by tracing a random sample as well as electronic data testing for outliers or missing data.
- Identified and analyzed the trends for Federal civilian nonfilers for FYs 2016 through 2020 by determining the following:
  - The number of employees, the number of tax modules and potential tax assessments, and the amount of delinquent balances due of Federal civilian and IRS employee nonfilers.
  - The number of Federal civilian employees who failed to file more than one nonfiler tax module (repeaters).
  - The number of Federal civilian employee nonfilers with Form W-2 income of $100,000 or more (high-income nonfilers). The COLL_FERDI files for all five years were combined, and additional fields were added for income (the table was then queried for incomes of $100,000 or more).
  - The average (median) age of delinquent tax modules for each fiscal year.
  - The top 10 Federal agencies with repeat civilian nonfilers.
- Performed a case review and trend analysis of all IRS employee nonfilers identified from FYs 2018 through 2021 COLL_FERDI data. We reviewed case history and disciplinary actions of the unique IRS employee nonfilers to ensure that proper procedures were followed.
- Reviewed ACS FERDI procedures and conducted telephone interviews with employees and managers in the ACS Jacksonville FERDI Headquarters site.
- Researched and analyzed I.R.C. § 6103 tax return information sharing limitations.
- Analyzed and reviewed the shelved FERDI nonfiler cases provided by the IRS.
- Reviewed the FERDI repeat nonfiler cases referred to IRS Criminal Investigation.

Performance of This Review

This review was performed with information obtained from the IRS Small Business/ Self-Employed Division's Headquarters Collection and Collection Inventory Delivery and Selection offices in New Carrollton, Maryland; the FERDI Headquarters ACS site in the

Jacksonville, Florida Campus; and the Office of Chief Counsel; the HCO; and the Office of Privacy, Governmental Liaison, and Disclosure; Criminal Investigation; and Office of Fraud Enforcement, in Washington, D.C., during the period April 2021 to August 2022. 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; Jon-Michael Socaris, Audit Manager; Richard Viscusi, Audit Manager; James Flood, Lead Auditor; Meaghan Tocco, Senior Auditor; and Lance Welling, Senior Information Technology Data Analyst.

Validity and Reliability of Data From Computer-Based Systems

For this review, we relied on data extracted by TIGTA's Strategic Data Services on the IRS COLL_FERDI files. The extract data validation by Strategic Data Services included input, completeness, and data integrity checks, as well as criteria and reasonableness checks. All fields were requested and received. Selected civilian nonfiler accounts from the data extract were compared to and agreed with IRS IDRS data. The COLL_FERDI file totals were compared to and agreed with the unredacted *FERDI Annual Reports*. We also conducted multiple interviews with Collection Inventory Delivery and Selection FERDI subject matter experts about the data. We determined that the data we obtained were sufficiently 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: 1) Collection Inventory Delivery and Selection FERDI subject matter experts electronic and manual tests and reviews of the annual COLL_FERDI files; 2) the principal IRMs including: FERDI and Liability Collection and Return Delinquency; 3) interviews of IRS executives, senior management, FERDI subject matter experts, FERDI collection managers and contact representatives; and 4) the IRS IMF CCNIP processes and controls. We evaluated these controls by reviewing numerous IRM sections and interviewing IRS executives, senior management, subject matter experts, field managers, and customer service representatives. We tested the IRS COLL_FERDI files against IDRS data and the FERDI Annual Reports. We confirmed with IRS management that the CCNIP process for nonfilers for FY 2019 and FY 2020 had not been run prior to our audit.

Appendix II

Detailed Steps for Internal Revenue Code § 1203(b)(8) Disciplinary Process of IRS Employees

In the HCO, the IRS Employee Tax Compliance Branch biannually identifies IRS employees who appear to have tax compliance issues and then sends the employee a letter. If the letter does not resolve the matter, the case is forwarded to local management for action. Cases involving apparent willful failure to timely file a Federal tax return are considered as potential § 1203(b)(8) cases, and managers are required to take the necessary steps to establish the relevant nonfiler case facts.[1] Not all IRS employee nonfiler cases will complete this process if they are deemed without merit or unsubstantiated.

Typically, before the HCO begins its investigation, IRS Collection has started to secure the delinquent tax return and bring the employee into compliance. IRS employees who do not timely file their income tax returns bypass Status 22 (ACS) and go directly from the TDI notice stream to Status 26 (Field) for systemic assignment to a revenue officer in their geographic area. The revenue officer proceeds to work the employee nonfiler like any other taxpayer's TDI case.

The investigation process starts when the manager first interviews the employee about their alleged nonfiling to determine all the facts of the case and to prepare a fact-finding memorandum. Management provides the labor relations specialist with the information to prepare the 1203 Review Board Executive Summary recommending the reasons for a willful or nonwillful finding. The proposing official then makes a determination of willfulness and forwards the findings to Field Labor/Employee Relations. The labor relations specialist records management's recommendation of willfulness in the Automated Labor and Employee Relations Tracking System file established for each case.[2]

The 1203 branch consultant reviews the manager's willfulness determination to assess whether they agree with it or if additional facts are needed to support the decision.[3] The branch consultant then prepares a recommendation documenting the reasons for a willful or nonwillful finding. The 1203 Review Board, comprised of senior IRS executives and business heads, meet to make the final determination on whether or not to recommend mitigation, which only the IRS Commissioner may grant. Finally, a decision letter that includes the determination, penalty, and Douglas factors is sent by the manager to the nonfiler employee and their representative.[4]

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[1] RRA 98, Appendix B, Document 11043, (Rev. 9-2007), Section 1203 Provision, '1203(b)(8), 'Willful failure to file any return of tax….'

[2] Bargaining unit employees have the right of oral or written reply and representation by their union.

[3] The 1203 branch consultant is a senior labor relations specialist who reviews § 1203(b)(8) and (b)(9) cases for both willful and nonwillful determinations.

[4] Douglas factors are: 1) Nature and Seriousness of the Offense, 2) Employee's Job, 3) Disciplinary Record, 4) Work Record, 5) Effect on Future Performance, 6) Consistency with Other Penalties, 7) Notoriety and Impact, 8) Clarity of Notice, 9) Potential for Rehabilitation, 10) Mitigating Circumstances, and 11) Adequacy of Alternative Sanctions.

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

February 1, 2023

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Lia Colbert Amalia C. Colbert Digitally signed by Amalia C. Colbert Date: 2023.02.01 08:24:18 -05'00'
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – The IRS Has Not Adequately Prioritized Federal Civilian Employee Nonfilers (Audit #202130012)

Thank you for the opportunity to review and comment on the subject draft audit report. In this review, TIGTA evaluated the effectiveness of the Federal Employee/Retiree Delinquency Initiative (FERDI), a program that promotes Federal tax compliance among current and retired Federal civilian and military employees.

The FERDI Annual Report for 2021 reflects that nearly 99% of the Federal civilian workforce is in filing compliance. TIGTA's analysis of fiscal year (FY) 2016 – 2020 IRS FERDI data found that at some point during this period approximately 42,000 Federal civilian employees had multiple years of unfiled tax returns. We confirmed nearly 80% of these taxpayer accounts have been resolved as of September 2022. TIGTA also determined that the IRS workforce consistently achieves the lowest tax delinquency rate in Federal government. TIGTA found that we took appropriate collection and disciplinary actions against noncompliant IRS employees.

We continue to prioritize our FERDI program to ensure Federal employees meet their obligations while balancing resource constraints and competing priorities, which were compounded by the unprecedented Coronavirus 2019 Disease pandemic (hereafter referred to as the pandemic). The Automated Collection System (ACS) Taxpayer Delinquent Account (TDA) and Taxpayer Delinquent Investigation (TDI) FERDI inventory segments are the highest priority for the ACS program. These inventories are the first to begin scheduled enforcement action and are the only inventories with dedicated staff assigned to a single ACS site. In addition, all incoming FERDI calls receive prioritized handling. When additional ACS resources are available, the FERDI site is the first to be considered for allocation. However, in recent years, severe staffing shortages, the pandemic, and challenges in IRS submission processing centers caused a strain on resources. To mitigate these significant challenges, we prioritized staff resources by shifting them to incoming taxpayer calls and using ACS automated processes to work TDI inventories. We also instituted new initiatives such as prioritizing FERDI inventory in the Automated Substitute for Return (ASFR) program, held inter-agency outreach meetings and created informational filing season flyers to further promote and improve Federal employee tax compliance.

We have considered the feasibility of working with the Department of Justice to develop referral criteria for FERDI taxpayers. IRS Criminal Investigation (CI) receives, evaluates, and investigates fraud referrals from the civil divisions after affirmative acts or firm indicators, or "badges", of fraud have been established. This would include referrals pertaining to Federal employee nonfilers with multiple years of unfiled tax returns. In addition, CI has a process to recommend prosecution on these same matters to Department of Justice. However, the Department of Justice does not accept or deny cases for prosecution based on generalized sets of referral criteria, making this recommendation not feasible. Furthermore, under current law, the willful failure to file a tax return is a misdemeanor punishable by a term of imprisonment of not more than one year and a fine of not more than $100,000. As illustrated on page 13, figure 6, the average FERDI taxpayer owes less than $10,000 in taxes which rarely equates to federal imprisonment. Pursuing a criminal prosecution that ends in minimal or no imprisonment could ultimately have a negative impact on voluntary compliance.

We appreciate your review of the FERDI program, and your recommendations for improvement. We understand the importance of FERDI in ensuring public trust in the Federal tax system and will continue to improve the FERDI program.

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

Attachment

Attachment

RECOMMENDATION 1:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should work with the Office of Fraud Enforcement and the Criminal Investigation Division to enhance IRM procedures and develop annual refresher training to the FERDI staff that can be used to develop potential fraud referrals.

CORRECTIVE ACTION:
We will revise IRM 5.19.18 to include the checklists provided in IRMs 25.1.11-1 and 25.1.7.2. In addition, IRS will develop and deliver annual refresher FERDI case management training. The headquarters FERDI staff will work with Office of Fraud Enforcement to develop and deliver a module on fraud referrals training as part of the overall FERDI training.

IMPLEMENTATION DATE:
March 15, 2024

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 2:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should revise Internal Revenue Manual (IRM) 5.19.18 to refer employees to the Fraud Handbook for fraud and/or willfulness procedures as soon as indications of fraud are present in any FERDI nonfiler case.

CORRECTIVE ACTION:
We will revise IRM 5.19.18.5.10.3 (6) to provide additional clarity and enhance guidance on referring employees to the Fraud Handbook for fraud and/or willfulness procedures as soon as indications of fraud are present in any FERDI nonfiler case.

IMPLEMENTATION DATE:
February 15, 2024

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 3:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should conduct an annual analysis on open FERDI cases that have multiple non filing years and determine the next course of action dependent upon this analysis and recommendations from Office of Fraud Enforcement. Cases that are deemed to have indicators of willfulness and/or Fraud should be referred to the Criminal Investigation Division.

CORRECTIVE ACTION:
We will conduct an analysis on the open FERDI cases found that have multiple non filing years and then confer with the Office of Fraud Enforcement to determine the appropriate next steps. Cases that are deemed to meet criminal referral criteria as established in compliance with the Internal Revenue Manual will be considered for referral to IRS Criminal Investigation. The results of this analysis will be documented in report format.

IMPLEMENTATION DATE:
March 15, 2024

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division
Director, Office of Fraud Enforcement, 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 4:
The Chief, Criminal Investigation, should work with the Department of Justice to develop referral criteria for Federal employee nonfilers with multiple years of unfiled tax returns, including standalone nonfiler cases that can be investigated and prosecuted where warranted.

COMMENT:
CI has a well-established process to coordinate the referral of cases to the Department of Justice (DOJ) that includes ongoing and regular collaboration on case prioritization and referral with each of the 94 judicial districts. CI receives, evaluates, and investigates

fraud referrals from the civil divisions after there have been established affirmative acts or firm indicators, or “badges”, of fraud. CI then uses the results of those investigations to make referrals to DOJ. When choosing whether to refer a case to DOJ, CI will refer to each district’s unique process for case referral. This would include referrals pertaining to Federal employee nonfilers with multiple years of unfiled tax returns. DOJ does not accept or deny cases for prosecution based on generalized sets of referral criteria. Rather, the process for determining which cases CI will refer to DOJ requires district-level collaboration and the exercise of experience-informed professional judgment, which makes this recommendation not feasible.

IMPLEMENTATION DATE:
N/A

RESPONSIBLE OFFICIAL:
N/A

RECOMMENDATION 5:
The IRS Commissioner should share this report and recommendation with the Department of the Treasury Office of Tax Policy to consider a legislative proposal to amend I.R.C. Section 7203 by replacing “misdemeanor” with “felony,” and additionally, by replacing the time for potential imprisonment from “one year” to “two years,” thereby making willful nonfiling a felony.

CORRECTIVE ACTION:
The IRS does not formally propose legislation. We will share TIGTA’s report and this specific recommendation with the Department of Treasury’s Office of Tax Policy.

IMPLEMENTATION DATE:
June 15, 2023

RESPONSIBLE OFFICIAL:
Chief, Criminal Investigation

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

RECOMMENDATION 6:
The IRS Commissioner should share this report and recommendation with the Department of the Treasury Office of Tax Policy to consider a legislative proposal to amend I.R.C. Section 6103 and any other required provisions of the law, thereby allowing the IRS to share essential return information with other Federal agencies upon the IRS’s identification of a current Federal employee who is tax delinquent.

CORRECTIVE ACTION:
The IRS does not formally propose legislation. We will share TIGTA's report and this specific recommendation with the Department of Treasury's Office of Tax Policy.

IMPLEMENTATION DATE:
June 15, 2023

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 7:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should prioritize all FERDI TDA and TDI work at the designated Campus site. Additionally, as resources and circumstances permit, FERDI Staff in Jacksonville should give a top priority to answering FERDI calls and working FERDI inventory.

CORRECTIVE ACTION:
As resources permit, Collection Inventory Delivery and Selection and Campus Collection will ensure FERDI balance due and delinquent return cases are worked as a top priority in the designated site. A resource feasibility assessment will be conducted to make the determination.

IMPLEMENTATION DATE:
July 15, 2024

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division
Director, Campus Collection, Small Business/Self-Employed Division

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

RECOMMENDATION 8:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should consider systemically sending the taxpayer an ACS LT 26 within 30 days of the case moving into standalone TDI inventory.

CORRECTIVE ACTION:
We will work with IT to pursue a Unified Work Request to implement programming changes to send LT 26 letters to taxpayers with specific stand-alone TDI case criteria systemically.

IMPLEMENTATION DATE:
March 15, 2025

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 9:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should add verbiage to the ACS LT 39 (*Reminder Notice*) that includes the outstanding TDI and how the taxpayer can resolve it.

CORRECTIVE ACTION:
We will pursue revisions to LT 39 that will include verbiage to address outstanding TDI issues and resolution.

IMPLEMENTATION DATE:
March 15, 2025

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 10:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should implement a programming fix to ensure that FERDI TDIs are properly blocked when a shelved transaction code is being used. Additionally, update IRM 5.19.17 to improve instructions when working FERDI accounts to reduce the risk of FERDI accounts being shelved incorrectly.

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CORRECTIVE ACTION:
We will work to address the programming issue to ensure FERDI TDIs are properly blocked when a shelved transaction code is input. Additionally, we will collaborate with the author of IRM 5.19.17 to specifically update the CNC Unable to Pay-Hardship procedures to refer campus employees to IRM 5.19.18.5.10.2, *Currently Not Collectible (CNC) – Hardship* for FERDI cases.

IMPLEMENTATION DATE:
March 15, 2025

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

RECOMMENDATION 11:
The Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division, should complete IMF CCNIP processing for TY 2020 as soon as a determination has been made that all TY 2020 returns have been processed.

CORRECTIVE ACTION:
These cases have been identified and TDI case creation will start when Wage and Investment Division Accounts Management and Submission Processing clears up the backlog of unprocessed returns and correspondence.

IMPLEMENTATION DATE:
March 15, 2025

RESPONSIBLE OFFICIAL:
Director, Collection Inventory Delivery and 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.

Appendix IV

Glossary of Terms

Term	Definition
Automated Collection System	A telephone contact system through which contact representatives collect unpaid taxes and secure tax returns from delinquent taxpayers, who have not complied with previous notices.
Case Creation Nonfiler Identification Process	The IRS's main process to identify individual nonfilers. The Nonfiler Inventory and Analysis group analyzes available data twice a year to identify an inventory of nonfilers. Once the nonfilers are identified, the IRS categorizes the cases based on a number of characteristics, such as the amount of third-party reported income, withholding data, and estimated tax due, and assigns each case a selection code.
COLL_FERDI	The annual FERDI delinquency file created from the aforementioned matching process by Collection Inventory Delivery and Selection. It is the source data for the IRS FERDI Annual Report.
Collection Inventory Delivery and Selection	Uses technology and strategies to select and route collection cases for efficient and effective resolution; oversees programs, policy, and systems for various aspects of Collection; and provides end user tools to help manage and process cases, all in an effort to improve productivity, increase revenue, and improve taxpayer voluntary compliance.
Combination Case (Combo)	A collection case in which the taxpayer has one or more tax delinquent account, as well as unfiled return(s) – TDIs.
Federal Employee/Retiree Delinquency Initiative	The FERDI program was developed in 1993 to promote Federal tax compliance among current and retired Federal employees.
Individual Master File	The IRS database that consists of Federal tax-related transactions and accounts for individuals.
Integrated Data Retrieval System	Accesses Master File account information using IDRS Command Codes. Through wide-area networks, the IDRS accesses: Corporate Files On-line; Files residing at the computing centers; and Taxpayer Information Files. The IDRS provides the means to: take control of and take action on cases; research accounts; and research or extract data from Master File tapes.
Internal Revenue Code § 6103	Confidentiality and disclosure of returns and return information.
Internal Revenue Code § 1203(b)(8)	TERMINATION OF EMPLOYMENT FOR MISCONDUCT, Willful failure to file any tax return required under the Internal Revenue Code of 1986 on or before the date prescribed therefore (including any extensions), unless such failure is due to reasonable cause and not to willful neglect.
Master File	The IRS database that consists of Federal tax-related transactions and accounts for individuals (IMF) or businesses (Business Master File). These include employment taxes, income taxes, and excise taxes.

Term	Definition
Standalone Inventory	The section of the specialized FERDI inventory that contains only taxpayers with one unfiled tax return.
Status Code	A code that designates the collection status of the tax module. Initial TDI status codes are: 02 (Return not posted; letter of inquiry mailed) and 03 (IDRS delinquency status). Other important codes are 22 (ACS) and 26 (Field collection).
Tax Module	Part of a taxpayer's account that reflects tax data for one tax class (Master File Transaction) and one tax period.
Tax Year	A 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.
Taxpayer Delinquency Investigation	A Return Delinquency tax module that goes into status 02 (Return not posted) when the first notice CP 59 is issued: a nonfiler.
Taxpayer Delinquent Account	A taxpayer balance due account in notice status, for which six weeks have elapsed since the issuance of the fourth notice, will systemically move the account to TDA status.

Appendix V

Abbreviations

ACS	Automated Collection System
ASFR	Automated Substitute for Return
CCNIP	Case Creation Nonfiler Identification Process
CI	Criminal Investigation
DOJ	Department of Justice
FERDI	Federal Employee/Retiree Delinquency Initiative
FPLP	Federal Payment Levy Program
FY	Fiscal Year
GS	General Schedule
HCO	Human Capital Office
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998
TDA	Taxpayer Delinquent Account
TDI	Taxpayer Delinquency Investigation
TIGTA	Treasury Inspector General for Tax Administration
TY	Tax Year

To report fraud, waste, or abuse, call our toll-free hotline at:

(800) 366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 23291

Washington, D.C. 20026

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