



*Treasury Inspector General for Tax Administration*  
**SEMIANNUAL REPORT TO CONGRESS**

APRIL 1, 2016 – SEPTEMBER 30, 2016

INTERNAL  
REVENUE  
SERVICE

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION (TIGTA)

## TIGTA's VISION

Maintain a highly skilled, proactive, and diverse Inspector General organization dedicated to working in a collaborative environment with key stakeholders to foster and promote fair tax administration.

## TIGTA's MISSION

Provide quality professional audit, investigative, and inspection and evaluation services that promote integrity, economy, and efficiency in the administration of the Nation's tax system.

## TIGTA's CORE VALUES

***Integrity*** – Maintain the highest professional standards of integrity, personal responsibility, independence, objectivity, and operational excellence in pursuit of TIGTA's mission.

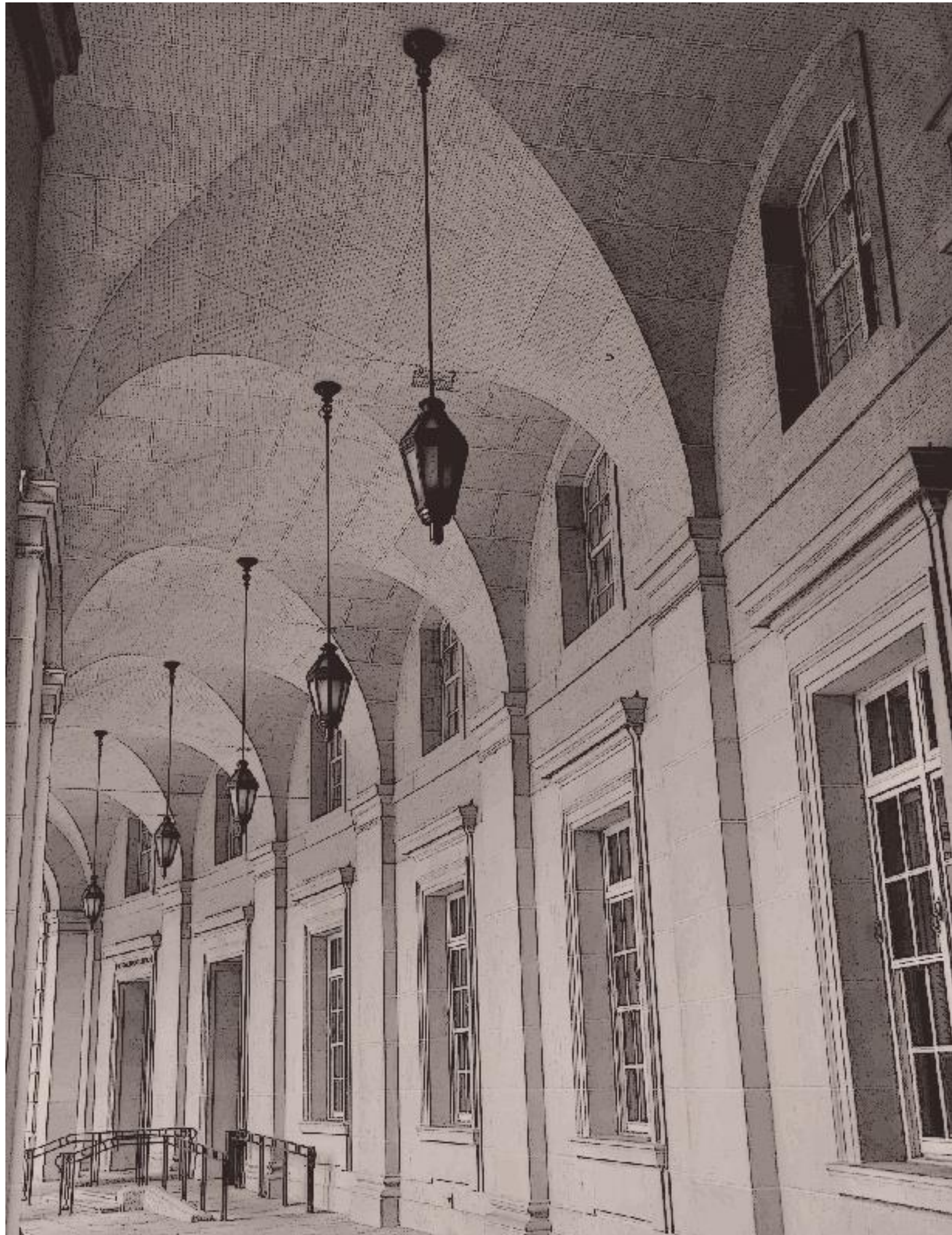
***Organizational Innovation*** – Model innovative practices in organizational structure, operational programs and processes, audit, investigative, and inspection and evaluation methodologies, and the application of advanced information technology.

***Communication*** – Achieve effective organizational approaches and solutions by encouraging open, honest, and respectful communication among TIGTA's executives, employees, offices, and functions, as well as between TIGTA and its external stakeholders.

***Value Employees*** – Respect the dignity, contributions, and work-life balance of our employees, and recognize diversity as fundamental to the strength of our organization.

***Commitment to Collaboration*** – Establish and maintain collaborative and professional relationships with other Government and non-Government stakeholders.







## Inspector General's Message to Congress

I am pleased to submit this Semiannual Report to Congress of the Treasury Inspector General for Tax Administration (TIGTA) for the period April 1, 2016 through September 30, 2016. This report highlights some of the most notable audits, investigations, and inspections and evaluations performed during this six-month reporting period, as we continue to work diligently in the pursuit of our mission to provide oversight of the Internal Revenue Service (IRS) and to protect the integrity of the Federal system of tax administration.



During this reporting period, TIGTA's combined audit and investigative efforts have resulted in the recovery, protection, and identification of monetary benefits totaling more than \$12.6 billion. In addition, TIGTA's Office of Audit has completed 60 audits, and its Office of Investigations has completed 1,506 investigations.

The IRS telephone impersonation scam continues to pose a serious threat to the American public and remains one of TIGTA's highest investigative priorities. As of September 30, 2016, more than 9,000 victims reported that they had paid the impersonators a total of more than \$49 million. Yet in this report you will see that TIGTA is making significant progress in our efforts to put a stop to this scam, which is the largest our agency has ever seen. To combat the scammers, TIGTA has established an "Advise and Disrupt" approach that identifies the telephone numbers used in the scam and, through an automated process, calls those telephone numbers to advise the scammers that their activity is fraudulent and criminal. By working with telephone companies, TIGTA has been successful in shutting down more than 92 percent of the telephone numbers used by the scammers.

Our investigative efforts also led to the arrest and indictment of five of the suspected scammers in Florida and to the indictment of two more in Wisconsin. The scammers are relentless, and so are we. Our investigators will not rest until we have brought to justice each of the individuals involved.

Preservation of the privacy and the integrity of data systems is rapidly becoming one of the most immediate and urgent priorities of commercial, financial, and government institutions throughout the world. It should come as no surprise, then, that the security of taxpayer data is currently among the highest priorities of both the IRS and TIGTA. One of the most critical challenges currently confronting the IRS is that of ensuring that all IRS information systems are secure and that taxpayers' Personally Identifiable Information remains protected and confidential.





During this reporting period, TIGTA committed substantial audit resources to the issue of taxpayer data security, including the release of two major audit reports concerning the IRS's response to the May 2015 breach of its online Get Transcript application.<sup>1</sup> TIGTA identified approximately 621,000 taxpayer accounts that the IRS had not identified, and that were targeted by potentially unauthorized individuals. In further analyzing these access attempts, we found that the potentially unauthorized users had successfully accessed 355,262 taxpayer accounts and viewed the taxpayers' personal tax information. In these same reports, TIGTA also evaluated measures taken by the IRS to assist taxpayers potentially affected by the breach and to prevent similar incidents in the future.

TIGTA continues to monitor the IRS's performance in carrying out its important role in the administration of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, popularly known as the Affordable Care Act.<sup>2</sup> For instance, one TIGTA audit summarized in this report was conducted to determine whether the IRS has adequate controls and procedures in place to properly collect delinquent Shared Responsibility Payments<sup>3</sup> and Advance Premium Tax Credits.<sup>4</sup>

TIGTA investigations summarized in this report have resulted in the conviction of corrupt IRS employees for, among other offenses, identity theft, receiving bribes, unauthorized disclosure of IRS records, and filing fraudulent tax returns. Although the number of IRS employees who are involved in criminal or other serious misconduct is a small percentage of the overall IRS population, such conduct nevertheless undermines the IRS's ability to deliver taxpayer service, to fairly and effectively enforce tax laws, and to efficiently collect taxes owed to the Federal Government.

As always, I am very proud of TIGTA's efforts to protect the integrity of the system of Federal tax administration. These efforts will continue as we work tirelessly together with Congress, the Administration, and the IRS to provide the American people with a fair, efficient, and effective tax administration system.

Sincerely,

A handwritten signature in black ink, reading "J. Russell George".

J. Russell George  
Inspector General

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<sup>1</sup> The Get Transcript application allows taxpayers to view and download their tax information on the IRS public website.

<sup>2</sup> Pub. L. No. 111-152, 124 Stat. 1029 (codified in scattered titles of the U.S.C.)

<sup>3</sup> Penalties that may be assessed against taxpayers who fail to maintain minimum essential health coverage.

<sup>4</sup> A tax credit that may be taken in advance by eligible taxpayers to lower monthly premiums.



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## TIGTA's Profile

**T**he Treasury Inspector General for Tax Administration (TIGTA) provides independent oversight of matters of the Department of the Treasury (Treasury Department or Department) involving activities of the Internal Revenue Service (IRS), the IRS Oversight Board, and the IRS Office of Chief Counsel. Although TIGTA is placed organizationally within the Treasury Department and reports to the Secretary of the Treasury and to Congress, it functions independently from all other offices and bureaus within the Department.

TIGTA oversees all aspects of activity related to the Federal tax system as administered by the IRS. TIGTA protects the public's confidence in the tax system by identifying and recommending strategies for addressing the IRS's management challenges and implementing the priorities of the Treasury Department.

TIGTA's organizational structure is comprised of the Office of the Inspector General and six functional offices: the Office of Investigations; the Office of Audit; the Office of Inspections and Evaluations; the Office of Mission Support; the Office of Information Technology; and the Office of Chief Counsel (see chart on page 8).

TIGTA provides audit, investigative, and inspection and evaluation services that promote economy, efficiency, and integrity in the administration of the Internal Revenue laws.

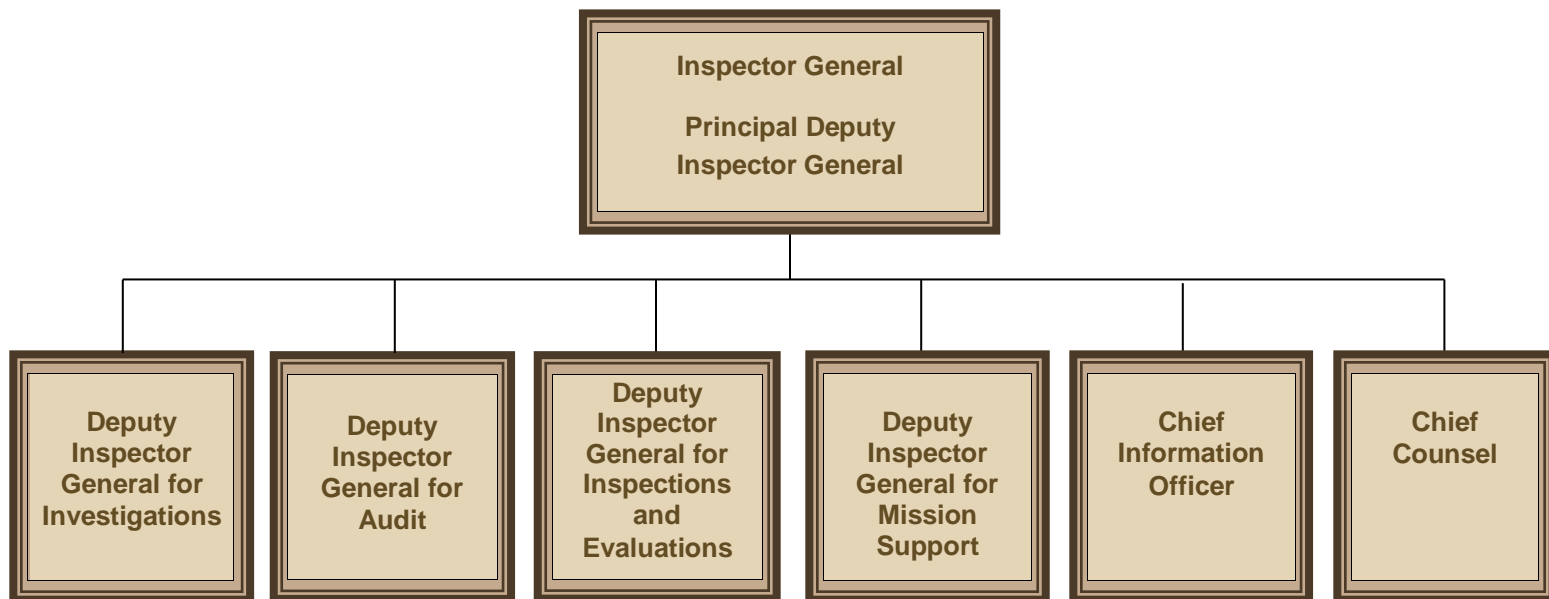
### Statutory Mandate

- **Protect** against external attempts to corrupt or threaten IRS employees.
- **Provide** policy direction and conduct, supervise, and coordinate audits and investigations related to IRS programs and operations.
- **Review** existing and proposed legislation and regulations related to IRS programs and operations, and make recommendations concerning the impact of such legislation or regulations.
- **Promote** economy and efficiency in the administration of tax laws.
- **Prevent** and detect waste, fraud, and abuse in IRS programs and operations.
- **Inform** the Secretary of the Treasury and Congress of problems and deficiencies identified and of the progress made in resolving them.





## Organizational Structure



## Authorities

TIGTA has all of the authorities granted under the Inspector General Act of 1978, as amended (Inspector General Act). In addition to the standard authority granted to Inspectors General, TIGTA has access to tax information in the performance of its tax administration responsibilities. TIGTA also reports potential criminal violations directly to the Department of Justice when TIGTA deems that it is appropriate to do so. TIGTA and the Commissioner of Internal Revenue (Commissioner or IRS Commissioner) have established policies and procedures delineating responsibilities to investigate potential criminal offenses under the Internal Revenue laws. In addition, the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) amended the Inspector General Act to give TIGTA the statutory authority to carry firearms, execute search and arrest warrants, serve subpoenas and summonses, and make arrests as set forth in Internal Revenue Code (I.R.C.) Section (§) 7608(b)(2).



# TIGTA's Highlights

## Examples of High-Profile Cases by the Office of Investigations:

### Five Individuals Arrested and Indicted for Fraud in IRS Phone Scam

On May 23, 2016, TIGTA agents arrested five suspects in Miami, Florida, for their roles in a widespread scheme involving the impersonation of IRS employees to fraudulently obtain money from victims.<sup>5</sup>

On June 8, 2016, in the Eastern District of Arkansas, two of the five individuals, Dennis Delgado Caballero and Jennifer Valerino Nuñez, were indicted for conspiracy to commit wire fraud and wire fraud.<sup>6</sup> On June 21, 2016, Arnolando Perez Mirabal was indicted in the Northern District of Texas for his role in the impersonation scheme.<sup>7</sup> The remaining two individuals, Roberto Fontanella Caballero and Yaritza Espinosa Diaz, were indicted in the District of Minnesota on July 26, 2016, for wire fraud related to their participation in the IRS impersonation scheme.<sup>8</sup>

According to the court documents, from about August 2015 until approximately May 2016, Dennis Caballero and Nuñez knowingly and intentionally conspired with each other and others to devise and participate in a scheme to obtain money by means of false and fraudulent pretenses.<sup>9</sup> Mirabal is alleged to have willingly participated in the same or similar activities from about September 2015 until April 2016.<sup>10</sup> Roberto Caballero and Diaz participated in the scheme from at least early October 2015 until late November 2015.<sup>11</sup>

As part of the conspiracy, taxpayers across the United States received telephone calls from persons who falsely represented themselves to be Government officials, in most cases agents of the IRS, and employed strategies to threaten or entice the victims into making an immediate payment to some purported Governmental entity. Often, the callers would accuse the victims of owing delinquent taxes, when in fact they did not. The callers would then use various methods of intimidation and would threaten the victims with arrest or other adverse action if payment was not immediately made.

Taxpayers were instructed to go to a nearby business that offered wire transfer services and to wire the money immediately. Typically, the victims were provided with a fictitious IRS employee's name and the State where the money was to be sent. As a result of

<sup>5</sup> [https://www.treasury.gov/tigta/press/press\\_tigta-2016-15.htm](https://www.treasury.gov/tigta/press/press_tigta-2016-15.htm)

<sup>6</sup> E.D. Ark. Indict. filed June 8, 2016.

<sup>7</sup> N.D. Tex. Indict. filed June 21, 2016.

<sup>8</sup> D. Minn. Indict. filed July 26, 2016.

<sup>9</sup> E.D. Ark. Indict. filed June 8, 2016.

<sup>10</sup> N.D. Tex. Indict. filed June 21, 2016.

<sup>11</sup> D. Minn. Indict. filed July 26, 2016.



the false representations, the victims would wire money to the impersonators to avoid the threatened actions, generally using either MoneyGram® or Walmart-2-Walmart wire transfer services.<sup>12</sup>

All five of the indicted individuals used fictitious identities and collected victims' wired money.<sup>13</sup> Dennis Caballero and Nuñez were known to have traveled together to at least 18 States to collect money wired by unsuspecting taxpayers. They used approximately 31 different false identities and received monies totaling more than \$2 million from approximately 1,000 victims.<sup>14</sup>

Similarly, Mirabal knowingly and willingly conspired with others in an impersonation scheme that included unsolicited phone calls made to taxpayers, purportedly from employees of the IRS. The callers would tell taxpayers that they owed the IRS an outstanding debt and typically threatened the taxpayers with arrest or the filing of a lawsuit if the debt was not immediately paid. Mirabal directed the taxpayers, just as Caballero and Nuñez did, to wire the funds via MoneyGram® or Walmart-2-Walmart services.<sup>15</sup> The impersonators often provided identification information, including IRS badge numbers, department and work titles, and telephone numbers that appeared to be legitimately associated with the IRS. Mirabal told one victim she needed to wire the money within 10 minutes. He further told her not to tell anyone what she was doing and to stay on the telephone with him throughout the entire transaction. As of May 16, 2016, Mirabal had received \$130,244.78 from 255 unique senders via MoneyGram® and/or Walmart-2-Walmart transactions conducted between September 2015 and April 2016.<sup>16</sup>

Roberto Caballero and Diaz, who lived in Miami and were involved in a personal relationship, participated in an equivalent scheme to defraud. As with the others, their victims were contacted, purportedly by the IRS, told they owed taxes, and directed to make immediate payment. One such victim received a message stating that the IRS was about to sue him. When the victim returned the call, a man told him the IRS had audited his Federal income tax returns from 2010 through 2013 and found that he owed an additional \$3,300 in taxes. The victim was directed to send \$1,980 via MoneyGram® to "Mirta Romero" in Minnesota immediately, which he did. Another victim was told that he owed back taxes and that the IRS would close all of his bank accounts, take his personal property, and put him in jail if he did not immediately pay the taxes.<sup>17</sup>

Roberto Caballero and Diaz traveled to Minnesota and several other States, including Colorado, Massachusetts, North Carolina, and Utah, to pick up funds that victims had been instructed to transfer. Diaz picked up the \$1,980 the victim had been instructed to send to "Mirta Romero" in Minnesota, plus a second victim's wire the same day at the

<sup>12</sup> E.D. Ark. Indict. filed June 8, 2016.

<sup>13</sup> E.D. Ark. Indict. filed June 8, 2016; N.D. Tex. Indict. filed June 21, 2016; D. Minn. Indict. filed July 26, 2016.

<sup>14</sup> E.D. Ark. Indict. filed June 8, 2016.

<sup>15</sup> N.D. Tex. Indict. filed June 21, 2016.

<sup>16</sup> N.D. Tex. Crim. Compl. filed May 16, 2016.

<sup>17</sup> D. Minn. Indict. filed July 26, 2016.





same location, also for recipient “Mirta Romero.” Roberto Caballero, using the identity of “David Guerra,” picked up three separate wire transfers on the same day at the same location in Fairbault, Minnesota. On October 13, 2015, he picked up 25 wire transfers from 13 different Walmart stores in Minnesota, all sent to “David Guerra.” On the same day, Diaz picked up 16 transfers from 11 of the same Walmart stores, all in the name of “Mirta Romero.”<sup>18</sup> In total, Roberto Caballero and Diaz received more than \$180,000 at MoneyGram® locations in Minnesota in a four-day period in October 2015.<sup>19</sup>

Just prior to arriving in Minnesota to pick up wire transfers, the two had been in Massachusetts doing the same thing. On October 9, 2015, Roberto Caballero picked up 22 wire transfers sent to 11 Walmart locations in Massachusetts. Diaz picked up 16 transfers from eight of those same Walmart stores the same day. At the time of indictment, more than 100 victims had been identified who had sent funds via MoneyGram® to Diaz and Roberto Caballero under various aliases. Between October 9 and October 16, 2015, the two had picked up at least 120 wire transfers in Minnesota and Massachusetts.<sup>20</sup>

On September 13, 2016, in the Northern District of Texas, Arnoldo Mirabal pled guilty to one count of conspiracy to defraud for his role in the impersonation scam. Mirabal could face a maximum of five years in prison. His sentencing is scheduled for January 5, 2017.<sup>21</sup> Additional legal proceedings are anticipated for the remaining defendants. Each could face a maximum of 20 years of imprisonment.

### **IRS Employee Sentenced to 110 Months in Prison for Leading \$1 Million Identity Theft Tax Fraud Scheme**

On August 10, 2016, in the Northern District of Alabama, IRS employee Nakeisha Hall was sentenced<sup>22</sup> for her role orchestrating a large-scale identity-theft refund scheme.<sup>23</sup> Hall pled guilty to the theft of Government funds, aggravated identity theft, unauthorized access to a protected computer, and conspiracy to commit mail fraud affecting a financial institution and bank fraud in February 2016.<sup>24</sup> She was initially charged in a sealed indictment in September 2015 with the theft of Government funds, identity theft, and unauthorized access violations.<sup>25</sup> In December 2015, the conspiracy charge was added against Hall; two coconspirators, Jimmie Goodman and Abdulla Coleman, were charged as well.<sup>26</sup> A third coconspirator, Lashon Roberson, had been charged in the conspiracy in October 2015.<sup>27</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> D. Minn. Crim. Compl. filed May 18, 2016.

<sup>20</sup> D. Minn. Indict. filed July 26, 2016.

<sup>21</sup> N.D. Tex. Plea Agr. filed Aug. 26, 2016; N.D. Tex. Crim. Docket as of Sep. 23, 2016.

<sup>22</sup> N.D. Ala. Judgment filed Aug. 26, 2016.

<sup>23</sup> N.D. Ala. Government's Sentencing Memorandum filed Aug. 1, 2016.

<sup>24</sup> N.D. Ala. Plea Agr. filed Feb. 8, 2016.

<sup>25</sup> N.D. Ala. Indict. filed Sep. 24, 2015.

<sup>26</sup> N.D. Ala. Superseding Indict. filed Dec. 15, 2015.

<sup>27</sup> N.D. Ala. Information filed Oct. 15, 2015.



According to the court documents, Hall began working at the IRS in 2000. She was employed in the IRS Taxpayer Advocate Service (TAS) office in Birmingham, Alabama, from 2007 to 2011, and has worked in TAS offices in New Orleans, Louisiana; Omaha, Nebraska; and Salt Lake City, Utah, since November 2011. The TAS function is responsible for assisting taxpayers who are having difficulties with the IRS, often because they are victims of identity theft needing assistance in removing fraudulent tax information from their accounts and with filing corrected tax returns.<sup>28</sup>

By virtue of her IRS employment, Hall had the ability to access taxpayers' Personally Identifiable Information (PII), including names, dates of birth, and Social Security Numbers (SSN). Hall's authority to access this information, however, was limited to official business purposes. Hall was fully aware of these limitations, had completed training regarding such, and knew that accesses made for non-business reasons could be subject to criminal prosecution. As a result of her lengthy IRS employment, Hall was also familiar with the process of filing tax returns and how to maximize tax refund amounts.<sup>29</sup>

As part of her scheme to defraud the IRS, and for the purpose of personal financial gain,<sup>30</sup> Hall intentionally exceeded her authorization at work and accessed thousands of names, dates of birth, and SSNs for non-business purposes, running various searches through the IRS's system looking for individuals who met certain criteria. Between 2008 and 2011, she fraudulently obtained PII to file hundreds of fraudulent individual income tax returns. Not only were these returns not authorized by the taxpayers whose identities she used, they also contained false and fraudulent Forms W-2, *Wage and Tax Statement*, and other information in order to generate improper and artificially inflated refunds.<sup>31</sup>

Hall prepared the fraudulent returns on her own computer using online tax software programs and requested that the associated refunds be put on debit cards designed solely for the purpose of accepting tax refunds.<sup>32</sup>

After Hall came up with the idea for the scheme, she approached the others (coconspirators) for assistance in retrieving and liquidating the refunds. Hall solicited and obtained "drop addresses" from Goodman, Coleman, Roberson, and at least one other unnamed individual. She then had the tax refund debit cards sent by mail to the various "drop addresses."<sup>33</sup>

Once the refund debit cards arrived via mail, Hall and her coconspirators retrieved and activated them using the taxpayers' PII previously obtained by Hall. Hall and her coconspirators accessed the associated funds through Automated Teller Machines or

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<sup>28</sup> N.D. Ala. Plea Agr. filed Feb. 8, 2016.

<sup>29</sup> *Id.*

<sup>30</sup> N.D. Ala. Superseding Indict. filed Dec. 15, 2015.

<sup>31</sup> N.D. Ala. Plea Agr. filed Feb. 8, 2016

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*



by purchasing goods and services with the cards and receiving cash back on any unspent balances. For returns that generated refunds in the form of paper Treasury checks instead of debit cards, they used fraudulent endorsements to cash the Treasury checks at financial institutions. Hall compensated her coconspirators either by giving them a portion of the money obtained or by giving them refund cards.<sup>34</sup>

As reflected in the Government's Sentencing Memorandum, Hall abused her position of trust as an IRS employee to devise and execute a complex, multi-year stolen identity refund scheme affecting hundreds of victims and involving hundreds of fraudulent tax returns and refunds. Overall, the scheme resulted in claims for more than \$1 million against the U.S. Treasury and successfully obtained more than \$400,000. Hall carefully searched for the victims while at the IRS, using IRS resources, effectively victimizing the citizens of the United States and jeopardizing the reputation of the IRS.<sup>35</sup>

Hall was sentenced to 110 months in prison, followed by 60 months of supervised release. She was further ordered to pay restitution to the IRS in the amount of \$438,187.15.<sup>36</sup>

Coconspirator Roberson, who had entered a guilty plea in February 2016,<sup>37</sup> was sentenced on July 7, 2016, to 36 months of imprisonment and restitution of \$119,185.30.<sup>38</sup> Goodman, who had pled guilty to the conspiracy charge in March 2016, was sentenced to 41 months of imprisonment on July 12, 2016, and ordered to pay restitution in the amount of \$82,802.67.<sup>39</sup> In May 2016, Coleman also pled guilty to the conspiracy,<sup>40</sup> and was sentenced on September 14, 2016, to 51 months in prison and ordered to pay \$47,092.95 in restitution to the IRS.<sup>41</sup>

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<sup>34</sup> *Id.*

<sup>35</sup> N.D. Ala. Government's Sentencing Memorandum filed Aug. 1, 2016.

<sup>36</sup> N.D. Ala. Judgment filed Aug. 26, 2016.

<sup>37</sup> N.D. Ala. Crim. Docket filed Oct. 15, 2015.

<sup>38</sup> N.D. Ala. Judgment filed Aug. 18, 2016.

<sup>39</sup> N.D. Ala. Judgment filed July 26, 2016.

<sup>40</sup> N.D. Ala. Crim. Docket as of Sep. 1, 2016; N.D. Ala. Plea Agr. filed May 9, 2016.

<sup>41</sup> N.D. Ala. Judgment filed Sep. 20, 2016.





## Examples of High-Profile Reports by the Office of Audit:

### **The Internal Revenue Service Did Not Identify and Assist All Individuals Potentially Affected by the Get Transcript Application Data Breach**

The Get Transcript application allows taxpayers to view and download their tax information on the IRS public website. On May 21, 2015, the IRS removed the application from its website after discovering it was being used for unauthorized accesses to taxpayer data. On August 17, 2015, the IRS reported that it had identified approximately 390,000 taxpayer accounts targeted by suspicious e-mail addresses. For about 220,000 of these accounts, potentially unauthorized individuals had successfully gained access to and viewed the taxpayers' personal tax information. The IRS believes that some of this information may have been obtained to file fraudulent tax returns.

This TIGTA audit focused on the IRS's identification of accounts that had potentially been breached and evaluated the assistance provided to the taxpayers who were affected. Assistance includes sending potential victims a notification letter and marking their accounts with an identity-theft incident marker.

The IRS did not identify all individuals potentially affected by the Get Transcript application breach. TIGTA found an additional 620,931 taxpayers whose tax information had been accessed by potentially unauthorized users that the IRS had not identified. Further, TIGTA's analysis of these access attempts found that potentially unauthorized users had successfully obtained access to 355,262 of the taxpayers' accounts.

TIGTA also found that the IRS did not appropriately place identity-theft incident markers on the tax accounts of 3,206 taxpayers who had been affected by the breach. In addition, the IRS did not offer an Identity Protection Personal Identification Number (IP PIN)<sup>42</sup> or free credit monitoring to 79,122 individuals whose accounts had been involved in an attempted access.

TIGTA recommended that the IRS:

- Implement additional evaluative methods to identify all individuals affected by the Get Transcript application breach and any future related data breaches;
- Issue notification letters to 620,931 taxpayers whose accounts had been potentially targeted and place identity-theft incident markers on the accounts of taxpayers that do not have the marker; and
- Issue IP PINs to the 79,122 individuals whose personal information was used by unauthorized individuals to attempt access to the Get Transcript application.

<sup>42</sup> The Identity Protection Personal Identification Number is a six-digit, single-use identification number that the IRS issues to some taxpayers and uses to validate a taxpayer's identity and for other security purposes.



IRS management agreed with all the recommendations, except the recommendation to issue IP PINs to the 79,122 individuals whose personal information was used by unauthorized individuals to attempt access to the Get Transcript application. However, it acknowledged a potential inconsistency with its current IP PIN issuance policies and agreed to consider this inconsistency in future IP PIN policy decisions. TIGTA is concerned that the lack of prompt action on this issue leaves these taxpayers accounts at an increased risk of an identity thief's filing a fraudulent tax return using the taxpayer's personal information.

**Reference No. 2016-40-037**

### **Improvements Are Needed to Strengthen Electronic Authentication Process Controls**

The risk of unauthorized access to taxpayer accounts will continue to grow as the IRS focuses its efforts on delivering online tools to taxpayers. In May 2015, the IRS discovered that fraudsters, using personal information stolen from third parties, had been able to perpetrate an attack on the online Get Transcript application by successfully authenticating taxpayer identities via the eAuthentication process.<sup>43</sup> As of September 2016, the IRS estimated, with assistance from TIGTA, that unauthorized accesses may have occurred on 724,000 taxpayer accounts. The consequences of unauthorized accesses include expanding the taxpayers' preexisting identity-theft issues and potential delays in tax return processing while identity-theft issues are resolved.

TIGTA initiated this audit to evaluate the appropriateness of the IRS's response to the Get Transcript incident and the effectiveness of the proposed solution to address the authentication weakness that allowed the incident to occur. TIGTA found that the IRS has undertaken a number of steps to improve systems and provide for more secure authentication, including the strengthening of application and network controls. However, additional actions could further improve security over the eAuthentication process.

Due to poor communication between the IRS and its contractor, the IRS did not have complete knowledge of what was being screened at the Integrated Enterprise Portal, and thus it was unaware of the weaknesses related to detecting automated attacks or the tools it might need to address them. The IRS did not clearly specify which parties, including IRS divisions and contractors, were responsible for detecting and preventing such automated attacks.

At the time of the Get Transcript incident, audit log reports were not being adequately monitored. For example, in July 2014, one user attempted to authenticate taxpayer identities 902 times within one 24-hour period, which far exceeded the unusual activity trigger. Additionally, the IRS did not have a routine way to correlate audit log information across different repositories. During the audit period, the IRS was able to

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<sup>43</sup> The IRS's process of electronically establishing confidence in user identities prior to any transaction with an information system.



produce the required reports, but they were just lists of transactions and did not contain summary information that could be used to identify trends. Moreover, some useful transaction information was not captured in eAuthentication audit logs. The IRS also did not provide responsible staff with the tools and training needed to monitor and analyze large amounts of audit log data.

TIGTA recommended that the IRS:

- Clarify IRS and contractor responsibilities related to preventing automated attacks;
- Monitor results of controls being put in place to prevent/detect automated attacks;
- Ensure that management implements IRS policy applicable to monitoring audit trails;
- Provide security specialists with adequate tools and training;
- Implement enhancements to audit log analysis;
- Compile periodic summary data of eAuthentication volume and unusual activity trigger event transactions; and
- Ensure that audit trails indicate which target application the user intended to access after authenticating.

The IRS agreed with our recommendations.

**Reference No. 2016-20-082**





## Promote the Economy, Efficiency, and Effectiveness of Tax Administration

**T**IGTA's Office of Audit strives to promote the economy, efficiency, and effectiveness of tax administration. TIGTA provides recommendations to improve IRS systems and operations and to ensure the fair and equitable treatment of taxpayers. TIGTA's comprehensive and independent performance and financial audits of the IRS's programs and operations primarily address statutorily mandated reviews and high-risk challenges the IRS faces.

The IRS's implementation of audit recommendations results in:

- Cost savings;
- Increased or protected revenue;
- Protection of taxpayers' rights and entitlements; and
- More efficient use of resources.

Each year, TIGTA identifies and addresses the IRS's major management and performance challenges. The Office of Audit places audit emphasis on statutory coverage required by RRA 98 and other laws, as well as areas of concern to Congress, the Secretary of the Treasury, the Commissioner of the IRS, and other key stakeholders.

### **Audit Emphasis Areas for April 2016 through September 2016**

- Security for Taxpayer Data and IRS Employees;
- Tax Compliance Initiatives;
- Achieving Program Efficiencies and Cost Savings; and
- Globalization.

The following summaries highlight significant audits completed in each area of emphasis during this six-month reporting period:

### **Security for Taxpayer Data and IRS Employees**

The IRS must ensure that all IRS information systems are secure and that taxpayers' Personally Identifiable Information remains protected and confidential. The IRS relies extensively on its computer systems to collect and process this information. As the IRS faces increased threats, it must be diligent in improving its programs and systems and cognizant of increasingly sophisticated attempts to obtain taxpayers' data.



## **Access to Government Facilities and Computers Is Not Always Removed When Employees Separate**

Various security-related items<sup>44</sup> issued to IRS employees to provide them with access to buildings and work space, and items issued for identification purposes, must be recovered from employees prior to their effective date of separation.

The IRS has designed controls to verify that physical access to Government facilities is secured when employees separate. The controls include a computer process to document that security items have been recovered from separating employees, including a third-party verification and deactivation of the returned item. This audit found that the controls and procedures designed to provide reasonable assurance that access to Government facilities and computers are protected after employees separate from the IRS were either not functioning as intended or not always followed in Fiscal Year (FY) 2014.

During that year, more than 4,100 full-time and permanent employees separated from the IRS. Based on a random sample of these employee separations, TIGTA estimated that the IRS could not verify that all security items were recovered from more than 2,700 (66 percent) of them. TIGTA also reviewed a judgmental sample of 10 employees, each of whom separated during a pending disciplinary case. The IRS could not verify the recovery of security items from six of these employees and could not provide evidence that these cases were referred to TIGTA's Office of Investigations, as required. Some of the security items not properly recovered were later used by individuals to enter IRS buildings.

In addition, managers failed to document all security items that should be recovered and listed some items for recovery that were not assigned to the separating employees. For example, 87 managers from our random sample of separated employees indicated that former employees were issued keys; however, only one of these managers listed keys as a recoverable item. In addition, 65 managers indicated that non-enforcement pocket commissions were recovered, although records indicated that these items were never assigned to the employees.

TIGTA made four recommendations, and IRS management agreed with each.  
**Reference No. 2016-10-038**

## **Tax Compliance Initiatives**

The Tax Gap, the difference between the estimated amount taxpayers owe and the amount they voluntarily and timely pay each year, is estimated to be \$450 billion. The underreporting of individual and corporate income, employment, and estate taxes accounts for approximately 84 percent of this total. Despite the budgetary pressure that has led to a reduction of IRS resources, the IRS must continue to identify and

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<sup>44</sup> Security items include Smart identification cards, non-enforcement pocket commissions, and keys.



implement innovative cost-saving strategies to enforce the law with integrity and fairness and to provide taxpayers with top-quality service by helping them understand and meet their tax responsibilities.

### **Opportunities Exist to Identify and Examine Individual Taxpayers Who Deduct Potential Hobby Losses to Offset Other Income**

A September 2007 TIGTA report<sup>45</sup> found that approximately 1.2 million taxpayers in Tax Year (TY) 2005 may have used hobby losses to reduce their taxable incomes in order to potentially avoid paying \$2.8 billion in taxes. The Internal Revenue Code (I.R.C.) generally disallows business tax deductions for activities “not engaged in for profit,” and I.R.C. Section 183(d), referred to as the “hobby loss” provision, provides a presumption that an activity is engaged in for profit if it is profitable for three years within a consecutive five-year period (or two of seven for the breeding, training, showing, or racing of horses).

This TIGTA audit was initiated as a follow-up to the September 2007 TIGTA report, to determine whether the IRS was taking sufficient action to minimize improper Schedule C, *Profit or Loss From Business*, losses claimed by taxpayers and the resulting loss of revenue to the Government.

TIGTA found that the IRS can improve its methods of addressing taxpayers who offset their income with hobby losses. Specifically, the IRS methods for identifying high-income taxpayers who may be offsetting their income with hobby losses do not maximize the use of all relevant taxpayer information available to the IRS. Also, when returns containing potential hobby losses are selected for audit, the examiners do not always address the hobby loss issues.

TIGTA’s evaluation of IRS data from Processing Years<sup>46</sup> 2011 through 2014 identified 9,699 individual returns from TY 2013 that claimed a Schedule C loss of at least \$20,000 and gross receipts of \$20,000 or less, and reported wages of at least \$100,000. These taxpayers also reported losses in four consecutive years (TYs 2010 to 2013).

TIGTA’s review of a statistically valid sample of 100 returns determined that 88 returns (88 percent) showed an indication that the reporting Schedule C businesses were not engaged in for profit. TIGTA estimates that 7,511 returns in the total sample population of taxpayers may have inappropriately used hobby loss expenses to reduce taxes by as much as \$70.9 million for TY 2013.

<sup>45</sup> TIGTA, Ref. No. 2007-30-173, *Sufficient Challenges Exist in Determining Whether Taxpayers With Schedule C Losses Are Engaged in Tax Abuse* (Sept. 2007).

<sup>46</sup> A processing year is the calendar year in which the tax return or document is processed by the IRS.



TIGTA recommended that the IRS:

- Make use of available research capabilities to identify high-income individual returns with multi-year Schedule C losses and other factors that indicate the taxpayer may not have a profit motive for the activity; and
- Emphasize the importance of the filing checks required in the preliminary determination of whether to pursue a hobby loss issue and provide tools to assist examiners in documenting their conclusions.

IRS management agreed with all the recommendations.

**Reference No. 2016-30-031**

**The Whistleblower Program Helps Identify Tax Noncompliance; However, Improvements Are Needed to Ensure That Claims Are Processed Appropriately and Expeditiously**

The I.R.C. authorizes the IRS to pay monetary awards to whistleblowers for information leading to the detection of underpayments of tax or to the trial and punishment of persons guilty of violating tax laws. The IRS Whistleblower Program plays an important role in reducing the Tax Gap by providing an avenue for the public to report tax evasion. However, whistleblowers and Members of Congress continue to express concerns with the operation of this program.

This TIGTA audit was initiated to determine whether whistleblower claims are appropriately and timely processed before referral for investigation, examination, or closure without referral.

The Whistleblower Program has helped the IRS collect significant amounts of revenue by facilitating whistleblower claims reporting violations of the tax laws that may otherwise go unidentified. From FY 2011 through February 2016, the IRS collected more than \$2 billion because of information provided by whistleblowers. In addition, the Whistleblower Office has recently reduced inventory backlogs. However, whistleblowers are not always contacted to clarify allegations. Improvements are needed to monitor the timeliness of claim processing and to ensure that rejection/denial decisions are properly supported. Furthermore, the Whistleblower Office does not have appropriate controls in place to allow for sufficient oversight of claim processing. Specifically:

- A lack of performance measurement and quality review impedes program evaluation;
- Computerized tracking data are not always accurate;
- Coding of claims on the Audit Information Management System is inconsistent; and
- Guidance for claim processing can be improved.

TIGTA made 10 recommendations, and IRS management agreed with nine. IRS management disagreed with TIGTA's recommendation that it establish guidance for the





storage of supporting documentation for claim determinations because it believes that existing guidance is sufficient. TIGTA maintains that existing guidance only requires documentation of the decision and not support for the decision.

**Reference No. 2016-30-059**

### **Actions Can Be Taken to Better Address Potential Noncompliance for Roth Individual Retirement Arrangement Conversions**

For TY 2011, IRS records show that approximately 400,000 taxpayers converted more than \$10 billion in assets from traditional to Roth Individual Retirement Arrangements (IRA). The IRS uses its Automated Underreporter (AUR) Program to systemically match third-party documents with tax returns in order to identify potential retirement plan discrepancies, such as tax noncompliance issues associated with Roth IRA conversions. Underreported taxes due on these conversions result in lost revenue to the Government.

TIGTA conducted its audit to assess whether the IRS has sufficient processes in place to address taxpayers who underreport taxes due when converting assets to Roth IRAs. TIGTA found that the IRS does have processes in place to address such taxpayers; however, AUR Program employees did not always follow these processes, and improvements can be made to lessen taxpayer burden.

TIGTA identified a population of 18,382 potential Roth IRA conversion compliance cases worked by the AUR Program in TY 2011 and reviewed a random sample of the cases. The IRS correctly followed its processing guidance in the Internal Revenue Manual (IRM) for 335 (87 percent) of 383 sampled cases. The remaining cases contained errors because in some instances guidance for processing Roth IRA conversions was unclear and in others the guidance was not followed by AUR Program personnel. In addition, IRS management stated that Roth IRA conversions are among the more complex issues handled by AUR Program personnel.

TIGTA also determined that the IRS could improve its procedures to reduce taxpayer burden by eliminating unnecessary notices. For 97 (25 percent) of the 383 sampled cases, the IRS could have researched information on IRS systems that would have enabled AUR Program personnel to correctly conclude that minimal or no taxes were due on the Roth IRA conversions. However, the IRM did not require AUR Program personnel to consider this information. As a result, the IRS issued unnecessary notices to taxpayers who owed minimal or no taxes on their Roth IRA conversions.

TIGTA recommended that the IRS:

- Clarify guidance and educate AUR Program personnel on Roth IRA conversion issues; and
- Update processes and procedures to consider available information prior to issuing notices to taxpayers.



The IRS agreed with the first recommendation and disagreed with the second, stating that much of the information that TIGTA recommends be reviewed is unavailable when AUR Program personnel initially review cases. In addition, matches are performed using a single tax year. TIGTA continues to believe that alternatives exist to adjust processes to reduce the number of unnecessary notices that result in minimal or no taxes due.

**Reference No. 2016-10-054**

### **Actions Are Needed to Better Identify and Address Individuals Who File Tax Returns Using Frivolous Arguments**

Individuals or businesses who oppose the Federal tax laws may use frivolous tax arguments to enrich themselves or evade paying tax. Generally, a frivolous tax argument is based on a frivolous or incorrect interpretation of the Federal tax laws. Individuals and businesses use these incorrect interpretations to support their claims that they are not subject to Federal tax laws. The IRS has identified 50 frivolous tax arguments used by taxpayers. During FYs 2012 through 2014, the IRS identified 36,648 frivolous tax returns in which the taxpayer used one or more of the 50 identified frivolous arguments.

TIGTA performed this audit to assess the IRS's efforts to identify and prevent the avoidance of individual income taxes based on frivolous tax arguments. The audit concluded that potentially erroneous refunds were paid as a result of undetected or insufficiently addressed frivolous tax return claims.

TIGTA specifically found that IRS processes and procedures do not identify all tax returns containing a potentially frivolous tax argument. As a result, the IRS paid more than \$27.2 million in potentially erroneous refunds or tax credits to 1,938 taxpayers who asserted one or more frivolous tax arguments in TY 2014. In addition, the IRS can assess a \$5,000 penalty for each of the 1,938 returns for which a valid return is not provided by the taxpayer. IRS management informed us that the Frivolous Return Program (FRP) filters have been modified to ensure that returns with the same characteristics as those 1,938 that were confirmed as frivolous will be identified and referred to the FRP for additional review.

In addition, TIGTA found that employees are not adequately trained to identify tax returns claiming frivolous tax return arguments. For example, 40 of the 50 identified frivolous arguments can be found through a manual review of paper-filed tax returns or correspondence. The IRS informed us that prior to Calendar Year 2013, annual FRP training was provided to its employees responsible for reviewing tax returns and correspondence. The IRS has developed two online frivolous return training courses. However, employees working in those units most likely to identify frivolous returns and correspondence are not required to take the training courses.

Finally, the FRP Correspondence Unit's employees incorrectly identified for destruction correspondence containing potentially frivolous arguments. Our review of 155 pieces of



correspondence found that 11 (7 percent) pieces should have been worked as frivolous correspondence but were incorrectly identified for destruction.

TIGTA made four recommendations, and IRS management agreed with each.

**Reference No. 2016-40-069**

### **Due to the Lack of Enforcement, Taxpayers Are Avoiding Billions of Dollars in Backup Withholding**

Congress enacted the Tax Equity and Fiscal Responsibilities Act of 1982<sup>47</sup> and the Interest and Dividend Tax Compliance Act of 1983,<sup>48</sup> which impose on payers<sup>49</sup> a backup withholding<sup>50</sup> tax on certain reportable payments. The purpose of backup withholding is to make sure that the Government is able to collect taxes on all appropriate income, particularly income that is not usually subject to withholding.

In September 2015, TIGTA issued a report<sup>51</sup> that identified deficiencies in backup withholding and other reporting requirements related to payment cards. This audit continued TIGTA's assessment of the IRS's actions to ensure compliance with backup withholding provisions.

TIGTA found that, although the majority of information returns are submitted by payers with valid Taxpayer Identification Numbers (TIN), nearly \$9 billion in backup withholding taxes was not withheld as required by payers submitting TY 2013 information returns with missing or incorrect TINs.

TIGTA's review also identified 13,647 payers that submitted 27,576 information returns with the same missing payee TIN for two years in a row (TYs 2012 and 2013). These returns reported payments of about \$14.3 billion. As such, payers were required to immediately withhold nearly \$4 billion from these payees; yet just over \$1 million was withheld.

In addition, TIGTA identified 62,714 payers that submitted 203,751 information returns for which the payee TIN was incorrect in four consecutive years. These returns reported payments totaling nearly \$17 billion. As such, payers were required to withhold nearly \$5 billion from these payees, yet only \$1 million was withheld.

TIGTA also found that there is no justification for criteria used to exclude payers from receiving backup withholding notices that include missing or incorrect TINs. For

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<sup>47</sup> Pub. L. No. 97-248, 96 Stat. 324.

<sup>48</sup> Pub. L. No. 98-67, Title I, Aug. 5, 1983; 97 Stat. 369, Pub. L. Section (§) 104(a).

<sup>49</sup> In the context of these statutes, a "payer" is a person or entity that makes distributions of interest, dividends, or other reportable payments.

<sup>50</sup> Backup withholding provisions require payers to withhold 28 percent of certain reportable payments associated with payees that do not provide the payer with a TIN or payees that provide the payer with an incorrect TIN.

<sup>51</sup> TIGTA, Ref. No. 2015-40-089, *Additional Actions to Enforce Payment Card Reporting Requirements Could Reduce the Tax Gap* (Sept. 2015).



example, of the 18.9 million tax returns that were identified by the IRS as having missing or incorrect TINs, the IRS notified the filers of only 10.8 million (57 percent) of these returns.

Finally, TIGTA's review of TY 2013 information returns identified 2.3 million returns submitted for 1.6 million individuals with reportable payments totaling \$4 billion for which the payee TIN belonged to a deceased individual.

TIGTA recommended that the IRS:

- Establish a Service-wide information returns backup withholding enforcement strategy;
- Document criteria used to exclude payers from receiving a notice; and
- Include specific actions that will be taken to address information return reporting of income under a deceased individual's TIN, as part of the development of the IRS's Service-wide information returns strategy.

The IRS agreed with our recommendations.

**Reference No. 2016-40-078**

## **Achieving Program Efficiencies and Cost Savings**

As the IRS must continue to carry out its mission with a significantly reduced budget, achieving program efficiencies and cost savings is imperative. The IRS must continue to identify and implement innovative cost-saving strategies to enforce the law with integrity and fairness, and provide America's taxpayers with top quality service by helping them understand and meet their tax responsibilities.

### **Significant Progress Has Been Made in Implementing an Enterprise Risk Management Program**

As a result of concerns regarding the IRS's previous use of inappropriate criteria in reviewing organizations' applications for tax-exempt status, the then-Acting IRS Commissioner reported in June 2013 that a series of actions had been identified to improve performance and accountability within the IRS. These actions included implementing a formal Enterprise Risk Management program to better identify emerging risks and mitigate them before they impact performance. Effective risk management can help the IRS more effectively administer our Nation's tax system.

This TIGTA audit was initiated to evaluate the IRS's efforts to implement a comprehensive process for identifying and mitigating significant risks to effective tax administration. TIGTA found that the IRS has made significant progress in its efforts to implement an Enterprise Risk Management program designed to provide a structured framework for the identification and mitigation of significant organizational risks. Steps that are already completed include the appointment of a Chief Risk Officer and the establishment of an embedded risk management structure within each of the IRS's





four operating divisions and 20 functional offices. In addition, the IRS has established a Risk Working Group (which includes representatives from the operating divisions and functional offices) and an Executive Risk Committee (comprised of IRS senior management) to facilitate collaboration on risk evaluation decisions.

In October 2014, the IRS completed an initial agencywide risk assessment focused on the use of a high-level, top-down approach to identify and provide insight on enterprise risk areas. In December 2015, the IRS completed its second agencywide risk assessment. The purpose of this assessment was to review risk areas across the organization in more depth, identify the top areas of risk impacting the IRS, and develop a coordinated agencywide approach to addressing these risk areas. This analysis identified 12 top enterprise risk areas.

Steps that are in process include integration of the Enterprise Risk Management program with the IRS's strategic planning, budgeting, and internal controls processes, and actively monitoring program performance. The IRS is also working to establish risk tolerance guidelines to assist in determining acceptable levels of risk associated with various IRS business decisions. Finally, the IRS is working to develop metrics, known as key risk indicators, to assist in signaling potential emerging risks.

TIGTA did not make any recommendation as a result of this review.

**Reference No. 2016-10-051**

### **Review of the Enterprise E-mail System Acquisition**

On August 24, 2012, the Office of Management and Budget (OMB) released a directive<sup>52</sup> that Federal agencies manage both permanent and temporary e-mail records in an accessible electronic format by December 2016. The directive states that e-mail records must be retained in an appropriate electronic system that supports records management and litigation requirements (which may include preservation-in-place models), including the capability to identify, retrieve, and retain records for as long as they are needed. The IRS currently maintains an on-premises e-mail environment that does not have archive capability. In addition, the existing system hardware is approaching manufacturer end-of-support and is experiencing numerous failures, resulting in a significantly increased workload on enterprise e-mail support staff.

TIGTA initiated the audit to determine whether the IRS properly procured a new system to comply with the OMB directive. TIGTA found that the IRS had purchased software subscriptions costing \$12 million that were unusable and were never deployed. The purchased subscriptions were separate products from the current environment and required new infrastructure and new security requirements before they were usable. TIGTA found that the software subscription purchase was made without first determining project infrastructure needs, integration requirements, business requirements, security and portal bandwidth, and whether the subscriptions were technologically feasible on the IRS enterprise.

<sup>52</sup> OMB, Memorandum M-12-18, *Managing Government Records Directive* (Aug. 24, 2012).



IRS Information Technology organization executives informed TIGTA that they made a management decision to consider the enterprise e-mail project an upgrade to existing software and not a new development project or program. Therefore, they decided not to submit a Request for Quotation document. They also did not follow the IRM Enterprise Life Cycle Commercial Off-the-Shelf Path or the Managed Services Path to acquire, develop, and deploy the new enterprise e-mail system.

TIGTA also found that the IRS may have violated the *bona fide* needs rule<sup>53</sup> when it purchased these subscriptions in FYs 2014 and 2015 using FYs 2014 and 2015 appropriations but did not deploy the software subscriptions in those years. In addition, the IRS violated Federal Acquisition Regulation requirements by not using full and open competition to purchase these subscriptions. The subscriptions were obtained by executing task orders against an existing blanket purchase agreement. However, the subscriptions purchased were not specifically included on the blanket purchase agreement.

TIGTA recommended that the IRS ensure that:

- Appropriate IRM sections are followed prior to the subscription requisition process and throughout the subscription project development life cycle for new subscriptions or managed services procurements;
- A review is conducted by IRS Chief Counsel to determine if the subscriptions purchased violated the *bona fide* needs rule and take any actions required by law; and
- It acquires the products through competitive procedures outlined in the Federal Acquisition Regulation if it intends to purchase a cloud solution in the future.

The IRS agreed with two recommendations and plans to have a review conducted by Chief Counsel and to collaborate and follow the Federal Acquisition Regulation. The IRS agreed only partially with one recommendation because it does not believe the Enterprise Life Cycle was applicable.

**Reference No. 2016-20-080**

## Globalization

The scope, complexity, and magnitude of the international financial system continue to present significant enforcement challenges for the IRS. As the IRS noted in its most recent strategic plan, the evolution and proliferation of virtual commerce has expanded the exchange of goods, services, and currencies – real and virtual – across multiple jurisdictions, further complicating tax administration. In addition, businesses with U.S.

<sup>53</sup> According to the Government Accountability Office's (GAO) *Principles of Federal Appropriations Law*, (GAO, GAO-04-261SP (3rd edition), *Principles of Federal Appropriations Law, Chapter 5 (January 2004)*) a fiscal year appropriation may be obligated only to meet a legitimate, or *bona fide*, need arising in, or in some cases, arising prior to but continuing to exist in, the fiscal year for which the appropriation was made.



tax obligations are increasingly adopting more complex business structures, shifting away from C corporations and moving towards flow-through entities, such as partnerships and S corporations.<sup>54</sup>

### **Improvements Are Needed in Offshore Voluntary Disclosure Compliance and Processing Efforts**

The United States generally taxes its citizens and resident aliens on their worldwide income. Some taxpayers use offshore bank/financial accounts to hide assets and income outside the United States in an effort to evade their Federal tax obligations. Taxpayers who intentionally fail to report income earned on offshore accounts or who neglect to disclose foreign assets as required by law face significant penalties and possible criminal prosecution if discovered by the IRS. While giving noncompliant taxpayers the opportunity to resolve their potential tax delinquencies through the Offshore Voluntary Disclosure Program (OVDP), it is important for the IRS to ensure that these taxpayers actually become compliant with their tax obligations.

This TIGTA audit was initiated to assess how well the IRS is managing the OVDP. The audit also sought to evaluate IRS efforts to improve taxpayer compliance and hold taxpayers accountable for the failure to report their offshore financial activities on their tax returns and Reports of Foreign Bank and Financial Accounts (FBAR). TIGTA found that the IRS needs to improve its efforts to address the noncompliance of taxpayers who are denied access to, or withdraw from, the OVDP.

TIGTA reviewed a stratified random sample of 100 taxpayers from a population of 3,182 OVDP requests that were either denied or withdrawn. Although 29 of these 100 taxpayers were potentially subject to FBAR penalties, the IRS did not initiate any compliance actions. Projecting the sample results to the population of denied or withdrawn requests, we determined that the IRS failed to assess approximately \$21.6 million in delinquent FBAR penalties.

TIGTA also identified internal control weaknesses that led to delayed or incorrect processing of OVDP requests through poor communication among IRS functions involved in the OVDP. These weaknesses include the use of separate inventory controls and two separate IRS addresses to which taxpayers are directed to send correspondence. These issues contributed to incorrect processing of some taxpayer disclosure requests. In addition, the IRS does not have a process to determine the appropriate skill level needed for revenue agents to work OVDP request certifications. OVDP cases are not equivalent to audits of taxpayers' returns and generally do not require as much technical analysis as traditional tax audits.

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<sup>54</sup> *Internal Revenue Service Strategic Plan – FY 2014-2017* (IRS Publication 3744) (Rev. June 2014).



TIGTA recommended that the IRS:

- Review all denied or withdrawn offshore voluntary disclosure requests identified in this report for potential FBAR penalty assessments and criminal investigations;
- Develop procedures for reviewing denied and withdrawn cases for further compliance actions;
- Centrally track and control OVDP requests;
- Establish a single mailing address for taxpayer correspondence;
- Ensure that employees adhere to timeliness guidelines throughout the entire OVDP process; and
- Classify OVDP certifications so that some can be worked by lower-graded revenue agents.

IRS management agreed with all the recommendations.

**Reference No. 2016-30-030**





## Affordable Care Act

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (Affordable Care Act)<sup>55</sup> represents the largest set of tax law changes in more than 20 years and presents a significant challenge to the IRS. Provisions of the Affordable Care Act provide incentives and tax breaks to individuals and small businesses to offset health care expenses. They also impose penalties, administered through the tax code, on individuals and businesses that do not obtain health care coverage for themselves or their employees.

With the development and implementation of new programs by the Department of Health and Human Services (HHS) and the IRS to fulfill the requirements of the Affordable Care Act, both the HHS Office of the Inspector General (OIG) and TIGTA have developed multi-year strategies to assess Affordable Care Act implementation. These strategies include continuing the ongoing coordination between the HHS OIG and TIGTA to help ensure that our work is complementary, and forming a joint working team focused primarily on Premium Tax Credits (PTC). We plan to closely coordinate or perform work jointly with the HHS OIG to review those processes that are highly interdependent between HHS and the IRS.

TIGTA has issued numerous reports related to the IRS's efforts to implement the Affordable Care Act tax provisions. For this six-month period, TIGTA issued the following significant reports:

### **Affordable Care Act: With Minor Exceptions, Controls and Procedures for Collection of the Shared Responsibility Payment and Excess Advance Premium Tax Credit Were Effectively Established**

The Affordable Care Act requires all individuals who receive the Advance Premium Tax Credit (APTC) to file a tax return to reconcile the payments to their allowable credit for the tax year. If the APTC amount received is more than the allowable credit, taxpayers must repay the excess. In addition, the individual Shared Responsibility Payment (SRP) may be assessed for taxpayers who do not maintain minimum essential health coverage. Because the law limits the IRS's use of traditional enforcement methods for collecting the SRP, there is a higher risk of taxpayer delinquency, taxpayer burden, and inconsistent treatment.

It is important that the IRS properly implement procedures and establish controls to collect taxes related to new Affordable Care Act provisions. This TIGTA audit was initiated to determine whether the IRS has adequate controls and procedures in place to properly collect delinquent SRPs and excess APTC repayments.

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<sup>55</sup> Pub. L. No. 111-152, 124 Stat. 1029 (codified in scattered titles of the U.S.C.).



TIGTA found that the IRS timely implemented training, procedures, and controls for collecting delinquent SRPs. Furthermore, TIGTA did not identify any instances in which the IRS took prohibited enforcement actions to collect delinquent SRPs.

Since the Affordable Care Act does not restrict the IRS's collection methods for excess APTC repayment, the IRS treats excess APTC the same way as any other tax debt on taxpayers' delinquent tax returns. TIGTA determined that the IRS followed collection procedures and did not identify any instances of improper actions related to repayment of excess APTC.

IRS policy requires SRP liabilities to be included in new, revised, and reinstated installment agreements and new offers in compromise (OIC). However, unlike other tax liabilities, the IRS decided that new unpaid SRP liabilities would not default taxpayers' existing installment agreements or OICs. IRS management believes that, because the SRP is not subject to enforcement actions, it should not be the sole reason to take enforcement action on other unpaid liabilities. It is within the IRS's authority to make this policy decision. However, this policy is inconsistent with another IRS policy requiring taxpayers to be in tax compliance prior to entering into installment agreements and increases the risk that taxpayers will accumulate new unpaid SRPs while maintaining an installment agreement.

TIGTA also identified SRP liabilities that were not included in taxpayers' new, revised, or reinstated installment agreements or new OICs, as required. However, management has taken corrective action to fix most of the problems.

TIGTA recommended that the IRS:

- Implement a programming fix to include SRP modules that are closed as below tolerance when setting up a new installment agreement for other tax liabilities; and
- Ensure that the TY 2015 SRP modules with misapplied payments are corrected, and monitor the situation until it is clear that the problem has been resolved.

The IRS agreed with the recommendations.

**Reference No. 2016-33-071**

### **Affordable Care Act Compliance Validation System: Security and Testing Risks**

Starting with 2014 individual income tax returns, the Affordable Care Act requires taxpayers to report that they have qualifying health care coverage, are eligible for a health coverage exemption, or make an SRP. The Affordable Care Act also created the Federal and State Exchanges from which individuals can purchase health plans and, if eligible, obtain an advance payment of the PTC to help pay premiums. The IRS developed the Affordable Care Act Compliance Validation System (ACV) to support post-filing compliance of the PTC and the SRP.



TIGTA initiated this audit to determine whether the IRS adequately developed and tested the ACV. Specifically, TIGTA evaluated the policies, procedures, and processes for developing and testing the ACV that included functional requirements; changes; project and risk management; and performance, functional, and security testing.

TIGTA found that the IRS successfully tested the functionality and security of the ACV prior to placing the system into production. The system was placed into production on September 10, 2015, prior to the mandatory due date of September 27, 2015.

The ACV project team followed system development procedures to identify functional requirements and to design the first release of the ACV. By using lessons learned from previous system development projects, the ACV project team was able to build the ACV and complete performance, integration, and release-level testing on schedule.

Following release-level testing, the IRS properly assessed the security of the ACV. The Cybersecurity organization provided all required documents and security testing results, including the identified security risks necessary for the authorizing official to make an informed decision authorizing the system to operate.

While the security testing met all applicable requirements, TIGTA found examples of inaccurate security control descriptions in 29 (14.4 percent) of 201 controls in the Affordable Care Act System Security Plan, a key security document. The errors TIGTA found did not cause any applicable security controls to be excluded from testing and did not affect the authorization decision to place the system into operation. During the audit, the Cybersecurity organization corrected the errors and updated the Affordable Care Act System Security Plan.

TIGTA made no recommendations in this report.

**Reference No. 2016-23-040**

### **The Affordable Care Act Case Management System Release 1.0**

The Affordable Care Act includes provisions that impose penalties, administered through the tax code, on businesses that do not obtain health coverage for their employees. Starting in the 2015 Filing Season, employers with 50 full-time employees, or a combination of full-time and part-time employees that is equivalent to 50 full-time employees, are subject to the Employer SRP provisions. The IRS will provide the Affordable Care Act Case Management (ACM) system that allows IRS employees to create, manage, and track the status of Employer SRP compliance cases to ensure employer compliance. TIGTA initiated this review to determine whether the ACM Project Management Office adequately managed risks that may delay the ACM system from being deployed in January 2017.

The IRS currently maintains approximately 90 separate case management systems. Case management is the process that addresses the resolution of tax administration issues through the management of case creation, execution, maintenance, and closure.



Entellitrak is the IRS's Enterprise Case Management tool. An analysis of Entellitrak determined that it appears to meet the case management needs of the ACM system. The IRS identified 77 ACM capabilities and determined that 35 are available in the Enterprise Case Management System. The remaining 42 capabilities are unique to the ACM system and were planned to be developed by the ACM project.

In addition, the IRS implemented a change management process to ensure that the ACM system aligns with the Enterprise Case Management System requirements. The change management process involves determining the type of request being made to change an IRS information technology system, which in turn determines the path used to decide whether the change will be approved.

Also, the ACM team monitored the potential risk involving interfacing systems. One interfacing system may not be completed by January 2017. ACM management had several discussions on this risk. ACM management planned to continue monitoring the risk in view of the pending decisions for the scope of the Affordable Care Act 7.1 release.

At the end of this audit, TIGTA obtained documentation that shows the Information Technology Affordable Care Act Program Governance Board approved on June 7, 2016, a request to close the ACM project and transfer its functional components and documentation to the Enterprise Case Management Program Management Office.

TIGTA made no recommendations in this report.

**Reference No. 2016-23-066**





# Protect the Integrity of Tax Administration

**T**IGTA is statutorily mandated to protect the integrity of Federal tax administration. TIGTA accomplishes its mission through the investigative work conducted by the Office of Investigations (OI). Through its investigative programs, OI protects the integrity of the IRS and its ability to collect revenue owed to the Federal Government by investigating violations of criminal and civil law that adversely impact Federal tax administration, as well as administrative misconduct by IRS employees, all of which undermine the integrity of the Nation's voluntary tax system.

## The Performance Model

The Office of Investigations accomplishes its mission through the hard work of its employees, whose efforts are guided by a performance model that focuses OI's resources on three primary areas of investigative responsibility:

- Employee integrity;
- Employee and infrastructure security; and
- External attempts to corrupt tax administration.

The Office of Investigations has adopted performance measures that identify results derived from investigative activities that most accurately align with the strategic goals of the organization and that provide the greatest impact on the protection of the integrity of Federal tax administration.

IRS employee misconduct undermines the IRS's ability to deliver taxpayer service, to enforce tax laws effectively, and to collect taxes owed to the Federal Government. External threats against the IRS impede its ability to fairly, efficiently, and safely carry out its role as the Nation's revenue collector. Individuals who attempt to corrupt or otherwise interfere with the IRS through various schemes and frauds impact the IRS's ability to collect revenue.

TIGTA investigates these serious offenses and refers them to IRS management when it involves IRS employee misconduct. When appropriate, TIGTA also refers its investigations to the Department of Justice for prosecution.

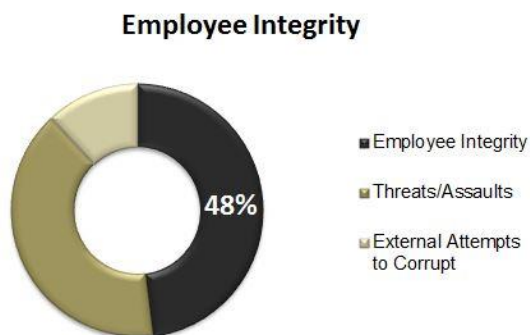
## Performance Area: Employee Integrity

In order for the country's tax system to succeed, taxpayers must have confidence in the fair and impartial administration of the Federal tax laws and regulations. IRS employee misconduct, whether real or perceived, can erode the public's trust and impede the IRS's ability to effectively enforce tax laws. Employee misconduct can take many



forms, such as: the misuse of IRS resources or authority; theft; fraud; extortion; taxpayer abuse; unauthorized access to, and disclosure of, tax return information; and identity theft.

During this reporting period, employee integrity investigations accounted for 48 percent of OI's work.



## Identity Theft and the Insider Threat

It is particularly troubling when IRS employees, who are entrusted with the sensitive personal and financial information of taxpayers, misuse their positions in furtherance of identity theft and other fraud schemes. This breach of trust negatively impacts our Nation's voluntary tax system and erodes confidence in the IRS. TIGTA proactively reviews the activities of IRS employees who access taxpayer accounts for any indication of unauthorized accesses that may be part of a larger fraud scheme.

The following cases represent OI's efforts to investigate identity theft committed by IRS employees during this six-month reporting period:

### IRS Employee Sentenced for Identity Theft in Connection With Audit

On August 3, 2016, in the Northern District of Georgia, IRS employee Creshika Wise was sentenced<sup>56</sup> after she had pled guilty on May 10, 2016, to aggravated identity theft in connection with a fraudulent scheme.<sup>57</sup> Wise was indicted for mail fraud, wire fraud, and aggravated identity theft in January 2016,<sup>58</sup> and was subsequently arrested for those offenses in Atlanta, Georgia.<sup>59</sup> According to the court documents, at all times relevant, Wise was an IRS revenue agent in Atlanta. Her official duties as a revenue agent included regularly auditing individual, business, and corporate tax returns, and calculating taxpayers' correct tax liability based on her examinations.<sup>60</sup>

In approximately August 2013, Wise was assigned to audit an individual tax return jointly filed by two married taxpayers. The taxpayers had authorized a certified public accountant (CPA) to transact business with the IRS on their behalf. Due to erroneous information received from a third party, the taxpayers had initially underreported and underpaid their Federal tax and, upon correction of the error, owed \$758,846 in additional personal income tax, plus interest. The taxpayers, through their CPA, agreed with this assessment.<sup>61</sup>

<sup>56</sup> N.D. Ga. Judgment filed Aug. 3, 2016.

<sup>57</sup> N.D. Ga. Plea Agr. filed May 10, 2016; N.D. Ga. Information filed May 10, 2016.

<sup>58</sup> N.D. Ga. Indict. filed Jan 14, 2016.

<sup>59</sup> N.D. Ga. Executed Arrest Warrant filed Feb. 5, 2016.

<sup>60</sup> N.D. Ga. Indict. filed Jan 14, 2016.

<sup>61</sup> *Id.*



Wise subsequently devised a scheme to knowingly defraud the taxpayers and to obtain money by means of false and fraudulent representations. Wise's scheme was designed to take all or part of the additional Federal tax and interest owed to the IRS by these taxpayers and keep it for herself. Wise created a fictitious IRS Form 4549, *Income Tax Examination Changes*, for the taxpayers and placed the fictitious form in the IRS's files. The fictitious Form 4549 showed a balance due of only \$282,363, rather than the \$758,846 already agreed upon. Wise also forged the signature of the taxpayers' CPA on the fictitious form.<sup>62</sup>

Wise then opened a checking account in the name "Creshika C. Wise Sole Prop D/B/A U.S. Treasury and Accounting Service." She later sent a deceptive e-mail to the taxpayer-husband instructing him to send a wire transfer to this account, which she described as being titled in the name "U.S. Treasury and Accounting Service," failing to disclose that the bank account belonged to her personally rather than to the IRS.<sup>63</sup>

Wise also attempted to open a bank account through the Internet at a different financial institution, this time in the names of the married taxpayers. As a follow-up, Wise sent a signature card via facsimile to the bank. She then called the bank, impersonating the taxpayer-wife in order to inquire about the status of the new account. In furtherance of her scheme, Wise changed, or caused to be changed, the taxpayers' addresses in the IRS computer system from their actual residence to a United Parcel Service mailbox opened and controlled by Wise.<sup>64</sup>

Wise was sentenced to a mandatory minimum term of two years of imprisonment.<sup>65</sup>

## Employee Integrity

The following cases represent OI's efforts to ensure employee integrity during this six-month reporting period:

### IRS Employee Sentenced to 30 Months in Prison for Taking Bribe

On May 13, 2016, in the Western District of Washington at Seattle, former IRS employee Paul G. Hurley was sentenced<sup>66</sup> after a jury found him guilty<sup>67</sup> of receiving a bribe and receiving an illegal gratuity in his capacity as a public official.<sup>68</sup>

According to the court documents, Hurley corruptly sought and received something of value personally in return for being influenced in the performance of an official act. Hurley had been employed as an IRS revenue agent since June 2009 and was

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> N.D. Ga. Judgment filed Aug. 3, 2016.

<sup>66</sup> W.D. Wash. Judgment filed May 13, 2016.

<sup>67</sup> W.D. Wash. Verdict Form filed Feb. 12, 2016.

<sup>68</sup> W.D. Wash. Judgment filed May 13, 2016.



assigned to the Seattle, Washington, IRS office. As a part of Hurley's official duties, he conducted audits of Federal tax returns to determine whether taxpayers had correctly reported and paid their tax liability to the IRS.<sup>69</sup>

In July 2015, a taxpayer who is part owner of a business that operates recreational marijuana shops and medical marijuana dispensaries in the State of Washington was notified of an audit of his business's Federal tax return. Hurley was listed as the assigned contact. The taxpayer and Hurley met at the taxpayer's place of business several times during the course of the audit. During their initial meeting, Hurley advised the taxpayer that the I.R.C. does not allow deductions or credits for a business whose activities consist of trafficking in illegal substances. Hurley noted that the taxpayer would be taxed on the business's gross revenue with limited deductions. However, during the audit Hurley seemed sympathetic to the taxpayer regarding the I.R.C.'s prohibition against deductions and credits for businesses in the marijuana industry and talked about being unhappy at the IRS.<sup>70</sup>

On September 11, 2015, Hurley gave the taxpayer the results of the audit with a proposed amount due of \$292,175.41 for TYs 2013 and 2014, to which the taxpayer agreed. Hurley continued on to say that he had saved the taxpayer more than \$1 million in the audit. He further indicated that he (Hurley) was living paycheck to paycheck. With additional clarification between the taxpayer and Hurley, the taxpayer understood him to be asking for a personal payment of \$20,000. Initially Hurley wanted the taxpayer to pay off his student loans in small amounts over time, but when the taxpayer declined, Hurley said he wanted cash. Hurley and the taxpayer scheduled a time to meet several days later. Hurley told the taxpayer not to tell anyone, not even his business partner.<sup>71</sup>

During a meeting on September 16, 2015, Hurley accepted \$5,000 from the taxpayer in connection with the conduct of his official duties as an IRS revenue agent and in exchange for providing low tax assessments on the audit. On September 21, 2015, Hurley accepted the remaining \$15,000, again in connection with the conduct of his official duties. Hurley was then arrested pursuant to a probable cause arrest. A search of Hurley's person and backpack revealed the \$15,000 cash, plus three \$20 bills with serial numbers matching those from the previous bribe payment.<sup>72</sup>

Hurley was sentenced to 30 months in prison, followed by three years of supervised probation and 100 hours of community service.<sup>73</sup> Hurley is appealing his conviction and sentence.<sup>74</sup>

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<sup>69</sup> W.D. Wash. Crim. Compl. filed Sep. 21, 2015.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> W.D. Wash. Judgment filed May 13, 2016.

<sup>74</sup> W.D. Wash. Notice of Crim. Appeal filed May 27, 2016.



## **IRS Employee Pleads Guilty to Conspiracy Involving Unauthorized Disclosure of IRS Records**

On July 19, 2016, in the Western District of Tennessee, IRS employee Michael Anthony Jones pled guilty to conspiracy to commit identity theft and unauthorized disclosure of information.<sup>75</sup> A criminal information was filed on the same date detailing the charge.<sup>76</sup>

According to the court documents, Jones, a resident of Memphis, Tennessee, was employed by the IRS as a contact representative at the IRS Service Center in Memphis. Jones had a personal relationship with his coconspirator, identified only as “TFB.” Jones knowingly and willfully agreed and conspired with TFB and others to commit identity theft and unauthorized disclosure of information. The object of this conspiracy was for TFB to obtain IRS taxpayer information from Jones and use such information for unjust financial enrichment.<sup>77</sup>

As part of the conspiracy, Jones used his access to the IRS databases, specifically the Remittance Transaction Research (RTR) system, to obtain taxpayer information without authorization.<sup>78</sup> According to the IRS, the RTR system provides access to remittance processing data and images, which generally include the front and back of a taxpayer’s cancelled check or money order and a voucher, if submitted with the payment.

Jones obtained RTR printouts of cancelled checks made payable to the U.S. Treasury Department and other personal information submitted by taxpayers to the IRS. Jones then disclosed such information to his coconspirator, providing TFB with the printouts and SSNs of at least three taxpayers for use in fraudulent activities. TFB used the illegally obtained information to breach taxpayers’ bank accounts, obtain monies, and commit other financial fraud against the taxpayers and the IRS. Jones received a portion of the proceeds from TFB.<sup>79</sup>

Jones could face a maximum of five years’ imprisonment and a fine up to \$250,000.<sup>80</sup> His sentencing is scheduled for November 21, 2016.<sup>81</sup>

## **IRS Employee Sentenced for Defrauding the Government With False Tax Returns**

On August 15, 2016, in the Eastern District of California, IRS employee Kimberly Brown-English was sentenced for the offenses of filing of a fraudulent tax return by an employee of the United States and of making an opportunity for a person to defraud the United States.<sup>82</sup> In May 2016, at the conclusion of a five-day trial,<sup>83</sup> a jury reached a

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<sup>75</sup> W.D. Tenn. Plea Agr. filed July 19, 2016.

<sup>76</sup> W.D. Tenn. Information filed July 19, 2016.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> W.D. Tenn. Plea Agr. filed July 19, 2016.

<sup>81</sup> W.D. Tenn. Crim. Docket filed July 19, 2016.

<sup>82</sup> E.D. Cal. Judgment filed Aug. 16, 2016.

<sup>83</sup> E.D. Cal. Crim. Docket as of Aug. 16, 2016.





unanimous verdict finding Brown-English guilty on all six counts of the indictment that charged her with these offenses.<sup>84</sup>

According to the indictment, Brown-English was employed by the IRS at the Fresno Service Center, Fresno, California, at all times relevant to the charges. Brown-English initially was employed by the IRS in 2002 and worked as a seasonal data transcriber from 2004 to 2012. She was promoted in September 2012 to the position of correspondence examination technician. Her primary duty was to provide assistance to taxpayers throughout the United States who were under IRS examination by educating them on tax laws and helping them to resolve IRS examination issues. Brown-English was required to complete training courses for this position that included the topics of the Earned Income Tax Credit, the Child Tax Credit, claimed dependents, and filing status.<sup>85</sup>

In 2012 and 2013, respectively, Brown-English prepared and filed her own 2011 and 2012 Federal income tax returns, in which she falsely claimed two dependents, listing one of them as her “parent” and the other as her “nephew.” She also claimed her filing status was Head of Household. The tax returns each contained materially false items. Neither of the individuals claimed as dependents had a familial relationship with Brown-English. One lived with her during 2011 and 2012, but paid rent and had an income. The other was homeless and did not reside with Brown-English. As a result of Brown-English’s false returns, made under penalty of perjury, she obtained refunds from the IRS to which she was not entitled.<sup>86</sup>

Additionally, between January 2012 and April 2013, Brown-English created opportunities for other individuals to defraud the United States by preparing and filing fraudulent Federal income tax returns for them. For one individual, Brown-English prepared and filed 2011 and 2012 returns falsely claiming dependents, the Earned Income Tax Credit, the Child Tax Credit, and Head of Household filing status. In fact, the claimed dependents did not live with the taxpayer more than one half of a year, nor did the taxpayer provide more than 50 percent support for the dependents, thus making the taxpayer ineligible to claim them as dependents, file as Head of Household, or receive the Earned Income Tax Credit and Additional Child Tax Credit.<sup>87</sup>

During the same time period, Brown-English prepared and filed the 2011 and 2012 tax returns of a second individual with similar false claims. That individual’s 2011 return fraudulently claimed five dependents. The 2012 return claimed one. The returns also contained false claims for the Child Tax Credit, the Additional Child Tax Credit, the Earned Income Tax Credit, and Head of Household filing status. Again, this taxpayer did not meet the eligibility requirements for claiming the dependents or the associated tax credits. As a result of Brown-English’s preparation and submission of the false

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<sup>84</sup> E.D. Cal. Verdict Form filed May 23, 2016.

<sup>85</sup> E.D. Cal. Indict. filed Oct. 9, 2014.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*



returns for these two individuals, they had the opportunity to fraudulently decrease their tax liability and obtain refunds from the IRS to which they were not entitled.<sup>88</sup>

Brown-English was sentenced to 15 months in prison, followed by 36 months of supervised release. She was further ordered to pay restitution to the IRS in the amount of \$33,780.<sup>89</sup>

## **Two IRS Employees Arrested for Preparing and Filing Fraudulent Tax Returns**

On April 15, 2016, in the Eastern District of California, IRS employees Della Ornelas and Randall Ruff were arrested for their roles in the preparation and filing of fraudulent Federal tax returns.<sup>90</sup> The day prior to their arrests, a 38-count indictment was filed charging the two with aiding and assisting in the preparation of fraudulent income tax returns and offenses by officers and employees of the United States.<sup>91</sup>

According to the court documents, Ornelas and Ruff are both IRS employees in Fresno, California. Ruff has been employed by the IRS for approximately 31 years, and Ornelas for approximately 25 years. The two have been married since 2012 and lived together for approximately 20 years prior to that time.<sup>92</sup>

Between 2005 and 2012, Ornelas and Ruff prepared and filed, or caused to be filed, numerous fraudulent Federal income tax returns for themselves, their family members, their friends, and others. They knowingly placed false information in the returns to reduce the amount of tax liability or to increase the amount of the refund.<sup>93</sup>

Specifically, Ornelas willfully aided in the preparation and presentation of 20 Forms 1040, *U.S. Individual Income Tax Return*, all of which contained fraudulent information, such as falsely claiming Head of Household status and/or false dependency exemptions. These false claims resulted in higher tax refunds for the taxpayers. Additionally, Ruff willfully aided in the preparation and filing of 14 Forms 1040, all containing similar types of fraudulent information.<sup>94</sup>

Many of the fraudulent refunds, when paid, had portions electronically deposited into bank accounts owned or controlled by Ornelas or Ruff, often without the taxpayer's knowledge.<sup>95</sup> In addition to the fraudulent returns of others, Ornelas, as an employee of the IRS, and in connection with a U.S. revenue law, knowingly made and signed her own Federal income tax return for TY 2009. In the return she made false claims as to Head of Household status and number of dependents, resulting in a tax loss of \$6,262.

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<sup>88</sup> *Id.*

<sup>89</sup> E.D. Cal. Judgment filed Aug. 16, 2016.

<sup>90</sup> E.D. Cal. Executed Arrest Warrant filed Apr. 15, 2016; E.D. Cal. Executed Arrest Warrant filed Apr. 15, 2016.

<sup>91</sup> E.D. Cal. Indict. filed Apr. 14, 2016.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*



Ruff made the same false claims on three of his own tax returns for TYs 2009, 2010, and 2011, which resulted in an aggregate tax loss of \$10,956.<sup>96</sup> As a result of their criminal conduct, Ornelas and Ruff defrauded the United States in a total amount of \$145,561.<sup>97</sup>

Additional legal proceedings are anticipated for both.

### **Employee Integrity Projects**

As part of its Employee Integrity focus, TIGTA conducts proactive investigative initiatives to detect misconduct in the administration of IRS programs. During this reporting period, TIGTA initiated 23 proactive projects to detect systemic weaknesses or potential IRS program vulnerabilities.

### **Performance Area: Employee and Infrastructure Security**

Collecting taxes is a critical function of the Federal Government. Threats and assaults directed at IRS employees, facilities, and infrastructure impede the effective and safe administration of the Federal tax system and the IRS's ability to collect tax revenue. Through its investigations of threats directed toward the IRS, TIGTA also ensures a safe environment for taxpayers to conduct business with the IRS. All reports of threats, assaults, and forcible interference against IRS employees performing their official duties are referred to OI. During this six-month reporting period, OI responded to 970 threat-related incidents.

Contact with the IRS can be stressful and emotional for taxpayers. While the majority of taxpayer contacts are routine, some may become confrontational and even violent. TIGTA's special agents are statutorily mandated to provide physical security, known as "armed escorts," to IRS employees who have face-to-face contact with a taxpayer who may pose a danger to the employee, and to ensure that IRS employees have a secure environment in which they can perform their critical tax administration functions. During this six-month reporting period, OI provided 42 armed escorts for IRS employees.

The Office of Investigations undertakes investigative initiatives to identify individuals who could commit violence against IRS employees or who could otherwise pose a threat to IRS employees, facilities, or infrastructure. It also provides intelligence to IRS officials to assist them in making proactive operational decisions about potential violence or other activities that could pose a threat to IRS systems, operations, and employees.

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<sup>96</sup> *Id.*

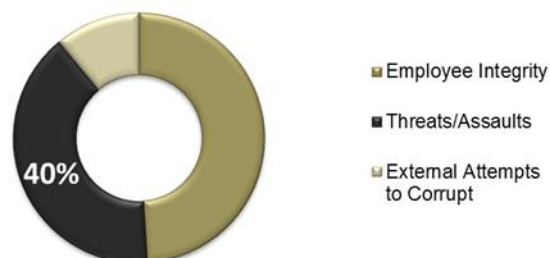
<sup>97</sup> *Id.*

The investigative information sharing between OI and the IRS Office of Employee Protection (OEP) to identify potentially dangerous taxpayers is one example of TIGTA's commitment to protecting IRS employees. Taxpayers who meet OEP criteria are designated as potentially dangerous. Five years after this designation has been made, TIGTA conducts a follow-up assessment of the taxpayer so that OEP can determine if the taxpayer still poses a danger to IRS employees.

During this six-month reporting period, threat and assault investigations accounted for 40 percent of OI's work.

The following cases represent OI's efforts to ensure the safety of IRS employees during the reporting period:

**Threats/Assaults**



### **Fort Lauderdale Man Arrested for Threatening IRS Employee With a Shotgun**

On May 20, 2016, in the Southern District of Florida, Ft. Lauderdale resident Bruce Hacker was arrested<sup>98</sup> and charged with forcible interference with an employee of the U.S. Government.<sup>99</sup> According to the court documents, Hacker is charged with forcibly assaulting, intimidating, and interfering with an IRS revenue officer by using a deadly weapon, to wit, a shotgun, while the revenue officer was engaged in the performance of his official duties.<sup>100</sup>

On May 19, 2016, the IRS revenue officer went to Hacker's residence regarding an official IRS matter. The revenue officer identified himself and displayed his credentials to a female occupant who came to the door. After answering the door, the female told Hacker that an individual from the IRS was at the front door requesting to speak with him. Hacker said, "I'll take care of this" and retrieved his shotgun.<sup>101</sup>

A short time later, Hacker opened the door, pointed the loaded shotgun at the revenue officer, shouted expletives at him, and told him to get off of his property, which the employee did.<sup>102</sup> Hacker was not home when agents from TIGTA responded to the incident; however, he surrendered to the U.S. Marshals Service the following morning.<sup>103</sup>

Additional legal actions are anticipated.

<sup>98</sup> S.D. Fla. Crim. Docket filed May 20, 2016.

<sup>99</sup> S.D. Fla. Crim. Compl. filed May 20, 2016.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*



## Oklahoma Man Arrested for Intimidation of an IRS Employee

On September 8, 2016, TIGTA special agents arrested David Anderson in Glenpool, Oklahoma.<sup>104</sup> Anderson was charged by criminal complaint in the Northern District of Oklahoma with corruptly endeavoring to obstruct or impede the due administration of the Internal Revenue laws.<sup>105</sup>

According to the court documents, Anderson made nonspecific threats and committed an overt act with the intent to harm, intimidate, or impede employees of the IRS. Anderson is under audit by an IRS revenue agent in the Special Enforcement Program (SEP). SEP is a specialized IRS compliance program directed toward that segment of the population which derives substantial income from either legal or illegal activities, and intentionally understates tax liability. Revenue agents working in SEP are experts in the identification and development of cases involving potential fraud.<sup>106</sup>

On September 7, 2016, the SEP agent conducting Anderson's audit received a report that Anderson was contemplating doing physical harm to several people in his life and had included the revenue agent's name in a conversation to that effect. Additionally, the reporting party indicated that Anderson was visibly upset about the audit and stated that he had attempted to follow the revenue agent to her home after leaving an audit meeting with her. The audit currently is expected to result in a Federal tax liability of approximately \$200,000 and could potentially be expanded to include additional tax years.<sup>107</sup>

Anderson's comments and actions caused immediate concern for the safety of the IRS employee and her family, precipitating his arrest.<sup>108</sup> Anderson was released on a \$25,000 appearance bond.<sup>109</sup> Additional legal actions are anticipated.

## Performance Area: External Attempts to Corrupt Tax Administration

TIGTA also investigates external attempts to corrupt or impede tax administration. Taxpayers may interfere with the IRS's ability to collect revenue for the United States in many ways, for instance by: impersonating IRS employees or misusing IRS seals and symbols; filing false or frivolous documents against IRS employees; using fraudulent IRS documentation to perpetrate criminal activity; offering bribes to IRS employees to influence their tax cases; or committing fraud in contracts awarded by the IRS to contractors. These attempts to corrupt or otherwise interfere with tax administration not only inhibit the IRS's ability to collect revenue but also undermine the public's confidence in fair and effective tax administration.

<sup>104</sup> N.D. Okla. Executed Arrest Warrant filed Sep. 13, 2016.

<sup>105</sup> N.D. Okla. Crim. Compl. filed Sep. 8, 2016.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

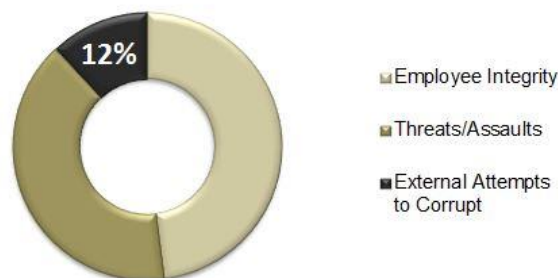
<sup>109</sup> N.D. Okla. Appearance Bond filed Sep. 9, 2016.



Individuals may also impersonate IRS employees to obtain PII from unsuspecting taxpayers or to defraud them out of their money. These individuals may claim to be IRS employees on the telephone or may misuse IRS logos, seals, or symbols to create official-looking letters and e-mails. The taxpayers are often told they owe money to the IRS that must be paid through a pre-loaded debit card, wire transfer, or iTunes® gift card. Sometimes taxpayers are tricked into providing their PII, which the impersonator uses to commit identity theft. TIGTA aggressively investigates these criminal activities to ensure that taxpayers maintain confidence in the integrity of Federal tax administration.

During this reporting period, investigations into attempts to corrupt or impede tax administration accounted for 12 percent of OI's work.

#### External Attempts to Corrupt



### Scams and Schemes

For more than 10 years, the IRS has provided the public with information on its website about what it deems to be the "Dirty Dozen" of tax scams. These scams range from offshore tax avoidance to fake charities and inflated refund claims. The list, which is compiled annually, features a variety of common scams that taxpayers may encounter. Many of these scams peak during the filing season, as people prepare their returns or utilize the services of paid preparers. The IRS telephone impersonation scam has become so prevalent that it is, once again, at the top of the IRS's "Dirty Dozen" list.<sup>110</sup>

Between October 2013 and September 30, 2016, TIGTA logged more than 1.8 million contacts from taxpayers who reported that they had received telephone calls from individuals who claimed to be IRS employees. The impersonators told the victims that they owed additional tax and that if they did not immediately pay they would be arrested, lose their driver's licenses, or face other adverse consequences. As of September 30, 2016, more than 9,000 victims reported that they had paid the impersonators a total of more than \$49 million.

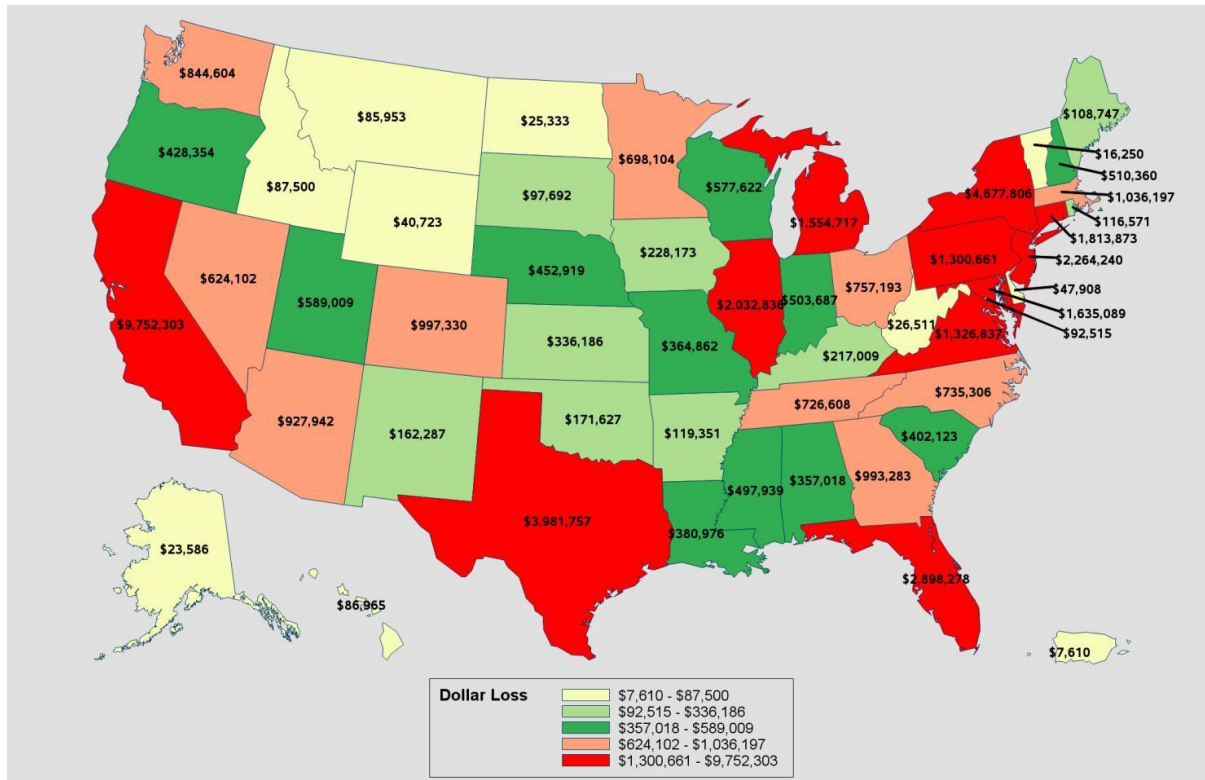
***"Every taxpayer we protect from this crime is a victory."***

*J. Russell George  
Inspector General  
Press Release dated March 17, 2016*

<sup>110</sup> <https://www.irs.gov/uac/newsroom/dirty-dozen-2016>



Because of their complexity, scams such as these are not typically resolved quickly. The impersonation scam has claimed victims in practically every State. The top five States with victims who have suffered financial losses are: California, Florida, New Jersey, New York, and Texas.



**Figure 1 Financial Losses by State**

To protect taxpayers from being victimized by the scammers, TIGTA has established an “Advise and Disrupt” approach to the scam that identifies the telephone numbers used by the scammers and, through an automated process, calls those telephone numbers to advise the scammers that their activity is fraudulent and criminal. By working with telephone companies, TIGTA has been successful in shutting down more than 92 percent of the telephone numbers used by the scammers.

Tax-related identity theft and IRS impersonation telephone scams cause a strain upon limited IRS and TIGTA resources and challenge the integrity of Federal tax administration. TIGTA is dedicated to educating the public about identity theft and IRS impersonation scams in its efforts to prevent fraud against the IRS and to protect U.S. taxpayers from falling prey to these scams. TIGTA has been working closely with the IRS, Federal Trade Commission, Consumer Protection Bureau, Veterans Affairs, U.S. Attorneys’ offices, and a variety of State and local governments, as well as media outlets, to publish press releases, warnings, and other public awareness announcements to alert taxpayers of this current scam.



TIGTA urges taxpayers to remain on “high alert” and is conducting additional outreach efforts to prevent them from falling victim to criminals who impersonate IRS and Treasury employees. The expanded outreach includes public service announcements, available on [YouTube](#) in English and Spanish, that warn taxpayers about the scam.



In addition, TIGTA is working with its partners in the public and private sector to help get the word out, both through traditional law enforcement channels and through direct outreach to associations, nongovernmental organizations, and the media. As part of TIGTA’s outreach efforts, Assistant Special Agent in Charge (ASAC) Patrick Firth participated in a senior citizen town hall meeting sponsored by Senator Richard Blumenthal in Hartford, Connecticut, on April 4, 2016, to discuss the IRS telephone impersonation scam.

On June 23, 2016, and September 22, 2016, TIGTA participated in a WJLA “7 on Your Side” viewer call-in segment on the telephone impersonation scam that was broadcast live from the ABC-affiliated television station in Arlington, Virginia. TIGTA agents responded to viewers’ questions and provided guidance about the scam.

***“The number of complaints we have received about this scam continues to climb, cementing its status as the largest, most pervasive impersonation scam in the history of our agency.”***

*Timothy P. Camus  
Deputy Inspector General for Investigations  
Congressional Testimony dated April 19, 2016*

## Impersonation Scams

The following cases represent OI’s efforts to investigate impersonation scams during this six-month reporting period:

### Two Individuals Indicted in Wisconsin for IRS Impersonation Scam

On July 26, 2016, in the Eastern District of Wisconsin, two individuals, Harshkumar Rajnikant Patel and Sunil Jashubhai Patel, were indicted for their roles in a scheme involving the impersonation of employees of the IRS. The 10-count indictment charged each with conspiracy to commit wire fraud and wire fraud.<sup>111</sup>

<sup>111</sup> E.D. Wis. Indict. filed July 26, 2016.



According to the court documents, between at least December 2015 and June 2016, the duo willingly participated in a scheme to defraud and to obtain money by means of false and fraudulent representations, and knowingly conspired with each other to commit wire fraud.<sup>112</sup>

Essentially, in an attempt to defraud individuals, unknown members of the scheme called victims and misrepresented themselves in order to induce their victims to send them a MoneyGram® (electronic transfer of money). For example, in some instances the callers pretended to be law enforcement officials and informed their victims that they owed money to the IRS for unpaid taxes. The callers would threaten their victims with arrest and jail time if the victims did not immediately pay the taxes by sending a MoneyGram®. The callers instructed the victims to send a certain amount of money and provided a specific location and the specific fictitious name of a recipient.<sup>113</sup>

Harshkumar Patel and Sunil Patel possessed fraudulent driver's licenses in the fictitious names of the MoneyGram® recipients, but with photos of themselves. They used these fraudulent driver's licenses to pick up several MoneyGram® transfers a day from various locations.<sup>114</sup> At least 21 different fictitious aliases have been identified for the two.<sup>115</sup>

Harshkumar Patel used at least 12 different false identities to receive more than \$650,000 from more than 600 fraudulent transactions. Sunil Patel used at least two identities to receive more than \$33,000 from at least 20 fraudulent transactions.<sup>116</sup> Each could face a maximum of 20 years' imprisonment.<sup>117</sup> Additional legal proceedings are anticipated.

### **Maryland Man Living Illegally in the United States Sentenced for Money Laundering Conspiracy**

On June 3, 2016, a judgment was entered in the District of Maryland against Kaushik K. Modi, also known as Kaushik K. Patel,<sup>118</sup> a native of India who is living illegally in the United States,<sup>119</sup> for his role in an impersonation fraud scheme. Modi pled guilty to money laundering conspiracy in March 2016.<sup>120</sup>

According to the court documents, sometime in early 2014, Modi was recruited by other Indian nationals to participate in a scheme to launder millions of dollars in fraud proceeds obtained from individual victims through a variety of schemes.<sup>121</sup>

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<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> E.D. Wis. Information Sheet filed July 26, 2016.

<sup>116</sup> E.D. Wis. Indict. filed July 26, 2016.

<sup>117</sup> E.D. Wis. Information Sheet filed July 26, 2016.

<sup>118</sup> D. Md. Crim. Docket as of Aug. 31, 2016.

<sup>119</sup> D. Md. Plea Agr. filed Mar. 22, 2016.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*



Modi was instructed via text messages received on his cell phone to purchase large numbers of stored value cards, principally Green Dot cards, and to forward the PIN numbers of the cards to other unidentified individuals. After forwarding the PIN numbers, Modi would receive instructions to use the cards, which had been loaded with monetary value by the coconspirators, to purchase money orders, principally MoneyGram® money orders at Walmart stores. He was further instructed to then deposit those money orders into bank accounts, either in Modi's name or in the names of third parties.<sup>122</sup>

Between January 1, 2014 and March 24, 2015, Modi deposited into his bank accounts 241 money orders totaling \$2,077,308.20, all in furtherance of the instructions he received from the coconspirators. Moreover, Modi frequently purchased the money orders using stored value cards that were activated by using the identification information of persons who were the victims of identity theft. At the time of his arrest, Modi had the identification documents of numerous third parties in his possession. He admitted to investigators that he knew "something was not right" about the source of the money and the manner in which he was converting the money from stored value cards to money orders to bank deposits. Accordingly, Modi knew that the money represented proceeds from some form of unlawful activity, and that the purpose of the transactions was to conceal or disguise the source, nature, location, ownership, or control of the proceeds.<sup>123</sup>

As part of the plea agreement, Modi is subject to deportation or other loss of immigration status.<sup>124</sup> He agreed to the forfeiture of all property involved in the money laundering conspiracy, including all funds seized from accounts held in his name, in the name of his alias, and in the name of his business, Modi Management, not to exceed \$857,597.20.<sup>125</sup>

On August 17, 2016, an order of restitution was filed ordering Modi to make restitution to the victims in the total amount of \$388,990.72.<sup>126</sup> Further, a consent order was filed for the forfeiture of funds from numerous bank accounts, money orders, and prepaid cards totaling \$468,606.48.<sup>127</sup> Modi had been in custody since May 2015<sup>128</sup> and was sentenced to time served.<sup>129</sup>

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<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> D. Md. Consent Order of Forfeiture filed May 16, 2016.

<sup>126</sup> D. Md. Order of Restitution filed Aug. 17, 2016.

<sup>127</sup> D. Md. Consent Order of Forfeiture filed Aug. 17, 2016.

<sup>128</sup> D. Md. Crim. Docket as of Aug. 31, 2016.

<sup>129</sup> D. Md. Judgment filed June 3, 2016.





## Canadian Man Sentenced in Advance Fee Scheme Impersonating IRS Employees

Canadian citizen Sandy Winick was sentenced on August 17, 2016, in the Eastern District of New York, for his orchestration of an international multimillion dollar fraud scheme.

According to the court documents, Winick is a Canadian citizen who lived at various times in Canada, China, Thailand, the United States, and Vietnam. Winick, also known as “Jerry Sarrano,” “John Peter Smith,” “Abdiel Vergara,” “Robin Cheer,” “Glen Forman,” “Kyle Benford,” and “Stephen Thompson,” together with a number of coconspirators, engaged in two separate but interrelated schemes: an advance fee scheme and a penny stock scheme. Winick was responsible for orchestrating both.<sup>130</sup> Winick and three coconspirators, Gregory Curry, Kolt Curry, and Gregory Ellis, were initially charged in July 2013 with impersonating IRS employees, wire fraud, and conspiracy in association with the international advance fee scheme.<sup>131</sup> Winick pled guilty to conspiracy to commit wire fraud related to the advance fee scheme in July 2015.<sup>132</sup>

Between January 2008 and July 2013, Winick, Gregory Curry, Kolt Curry, Ellis, and others, conspired to obtain money and property from victims by means of false representations and promises related to the advance fee scheme. The penny stock scheme involved fraudulently inflating, and attempting to inflate, the share prices and trading volumes of certain penny stocks. The advance fee scheme involved making false promises to investors to induce them to pay fees for non-existent services to sell their nearly worthless stocks for a profit.<sup>133</sup> The schemes claimed victims from 35 different countries.<sup>134</sup>

In furtherance of the advance fee scheme, coconspirators maintained calling centers in Canada, Thailand, and Vietnam. Victims lived in countries throughout the world. Individuals, acting at the direction and control of the advance fee scheme coconspirators, placed calls from the calling centers to actual and potential victims, falsely claiming to represent unidentified buyers interested in purchasing the victims’ restricted stock at an attractive price. The callers claimed several types of advanced fees were needed. Winick and his coconspirators posed as employees of fake companies and actual entities, including the IRS. After victims were advised to pay other fees related to the sale of the stocks, the coconspirators sent, via e-mail, a notice that the IRS required payment of approximately 30 percent of the transaction in taxes before the sale could be completed. These e-mail messages contained false and fraudulent communications purporting to be from employees of the IRS, with names such as “Daniel Summers” and “Trevor Duncan.” The coconspirators created these

<sup>130</sup> E.D. N.Y. Second Superseding Indict. filed July 16, 2015.

<sup>131</sup> E.D. N.Y. Indict. filed July 31, 2013; E.D. N.Y. Superseding Indict. filed Aug. 7, 2013.

<sup>132</sup> E.D. N.Y. Crim. Cause for Pleading filed July 17, 2015.

<sup>133</sup> E.D. N.Y. Superseding Indict. filed Aug. 7, 2013.

<sup>134</sup> E.D. N.Y. AUSA Letter Requesting Detention filed Aug. 13, 2013.



fictitious IRS personas and IRS documents solely for the purpose of defrauding the victims.<sup>135</sup>

Victims were instructed to wire the fees, including the IRS fee, through Citibank in New York and were ultimately transferred to an account in Beirut, Lebanon. Funds were further wired throughout the world to accounts maintained by Winick, Gregory Curry, Kolt Curry, Ellis, and others. None of the victims received their anticipated sales proceeds after paying the fees.<sup>136</sup>

In March 2013, Winick began recruiting individuals for two more call centers, including one in Brooklyn, New York. When discussing plans to open a call center in New York, Kolt Curry stated, in part, "...hitting the Americans would be like taking money from a baby."<sup>137</sup> The proceeds of the advance fee scheme in 2009 and 2010 alone totaled more than \$5 million.<sup>138</sup>

Winick, who was extradited from Thailand, was sentenced to 78 months in prison and ordered to pay \$2,431,038.32. Additionally, a final order of forfeiture was filed against Winick in the amount of \$5,000,000.<sup>139</sup>

The investigation involved the cooperation of numerous agencies and international authorities, including TIGTA, IRS Criminal Investigation, the Federal Bureau of Investigations, U.S. Immigration and Customs Enforcement, the Department of Homeland Security-Homeland Security Investigations, the Department of Justice Office of International Affairs, the Royal Canadian Mounted Police, the United Kingdom's National Crime Agency, and law enforcement authorities in China and Thailand.

## Lottery Scams

Lottery scams usually start with e-mails or telephone calls to unsuspecting victims, informing them that have won the lottery but before they can collect the winnings they must send money to prepay a tax to the IRS. The lottery scam often, but not always, originates from outside of the United States and is effective because it capitalizes on a very common dream of hitting the jackpot and getting rich quick. These schemes often target the elderly and peak during the tax filing season. TIGTA continues to work with its law enforcement partners in the United States and abroad to shut down these operations.

The following case represents OI's efforts to investigate lottery scams during this six-month reporting period:

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<sup>135</sup> E.D. N.Y. Second Superseding Indict. filed July 16, 2015.

<sup>136</sup> E.D. N.Y. Superseding Indict. filed Aug. 7, 2013.

<sup>137</sup> E.D. N.Y. Superseding Indict. filed Aug. 7, 2013; E.D. N.Y. AUSA Letter Requesting Detention filed Aug. 13, 2013.

<sup>138</sup> E.D. N.Y. Superseding Indict. filed Aug. 7, 2013.

<sup>139</sup> E.D. N.Y. Final Order of Forfeiture filed Aug. 19, 2016.



## Individual Pleads Guilty to Role in Jamaican Lottery Scheme

On May 19, 2016, Daile Ferguson, a/k/a Normandale Ferguson, pled guilty<sup>140</sup> in the Southern District of New York, to conspiracy to commit wire fraud in connection with a Jamaican lottery scheme.<sup>141</sup> Ferguson had been arrested in December 2015 for the offense<sup>142</sup> and was indicted in February 2016.<sup>143</sup>

According to the court documents, Ferguson was involved in a scheme to obtain money from elderly victims by informing them that they had won substantial cash prizes in an international sweepstakes lottery, but that before they could claim their prizes they had to pay fees and taxes. The victims were contacted by telephone, fax, and e-mail, and were requested to pay fees and taxes on the winnings; however, there was no sweepstakes lottery and the victims never received any cash prizes. The victims sent hundreds of thousands of dollars in cash and checks to conspirators in the United States and in Jamaica. Ferguson received more than \$430,000 from approximately 87 different individuals throughout the United States. Of those 87 individuals, approximately 43 were more than 70 years old and approximately 59 were more than 60 years old.<sup>144</sup>

One of the victims, a resident of Connecticut, received a letter purporting to be from a "tax return officer" with the IRS. That letter advised that the victim had won \$750,000, which "was processed through the IRS office," and that the IRS "has also verified and has recorded the payment." The letter also stated that insurance fees had to be paid before the victim could receive the money. In addition, the victim received several telephone calls from various individuals, including an individual who identified herself as an employee of the IRS and demanded that the victim make payments in order to receive the supposed winnings. As a result of the telephone calls and e-mails that the victim received from the conspirators, the victim sent approximately \$20,000 through various means to numerous individuals, including Daile Ferguson.<sup>145</sup>

When interviewed, Ferguson admitted that in or around 2011 he began collecting money from individuals located in the United States on behalf of his acquaintances in Jamaica and kept a portion of the money he collected for himself. He also admitted that he heard that at least one of the individuals on whose behalf he collected money was involved in a lottery scheme. He admitted that "something felt wrong" and "not right" about collecting the money.<sup>146</sup> Sentencing is scheduled for October 12, 2016.<sup>147</sup>

<sup>140</sup> S.D. N.Y. Plea Allocution filed May 19, 2016.

<sup>141</sup> S.D. N.Y. Indict. filed Feb. 17, 2016.

<sup>142</sup> S.D. N.Y. Bail Disposition filed Dec. 22, 2015.

<sup>143</sup> S.D. N.Y. Indict. filed Feb. 17, 2016.

<sup>144</sup> S.D. N.Y. Crim. Compl. filed Dec. 16, 2015.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> S.D. N.Y. Crim. Docket as of September 8, 2016.



## Corrupt Interference

The following cases represent OI's efforts to address and deter external attempts to corrupt tax administration during this six-month reporting period:

### **Texas Man Sentenced to 15 Years in Prison for Fraudulent Form 1099-OID (Original Issue Discount) Scheme**

On June 22, 2016, in the Southern District of Texas, Kenneth Robert Bruce was sentenced<sup>148</sup> after a jury convicted him on all 27 counts of an indictment.<sup>149</sup> Bruce had been charged with 26 counts of making false claims and one count of interfering with the administration of Internal Revenue laws.<sup>150</sup>

According to the court documents, Bruce, while aiding and abetting others and while being aided and abetted by others, made and presented to the IRS 26 fraudulent claims against the United States for payments of false income tax refunds by preparing and causing to be prepared U.S. Individual Income Tax Returns, Amended U.S. Individual Income Tax Returns, and a U.S. Income Tax Return for Estates and Trusts, containing materially false, fictitious, and fraudulent IRS Forms 1099-OID (Original Issue Discount) and other material false items.<sup>151</sup>

From November 2008 through June 2012, Bruce corruptly endeavored to obstruct and impede the due administration of the I.R.C. by preparing and filing numerous fraudulent Federal income tax returns claiming false income tax refunds, in some cases of more than \$1 million, in a false IRS Form 1099-OID scheme. Bruce attached to the various fraudulent income tax returns false IRS Forms 1099-OID claiming that certain entities had paid large amounts of income to the taxpayer in the form of Original Issue Discount and claiming that the entities had withheld all or a large portion of such alleged income as Federal tax withholdings. In truth, the taxpayers had no income from Original Issue Discount, and the entities named on the false Forms 1099-OID did not make any of the alleged payments or withholdings.<sup>152</sup>

On November 24, 2008, Bruce made an application to the IRS for, and was granted, an account for Filing Information Returns Electronically (FIRE account), which allowed him to electronically file information returns, such as Forms 1099-OID, on behalf of entities. Using his FIRE account, Bruce filed many false Forms 1099-OID, purportedly from the entities named on the forms, reporting income in the nature of Original Issue Discount paid to taxpayers, as well as withholdings of some or of all of the income. The false Forms 1099-OID that Bruce filed with the IRS matched many of the false Forms 1099-OID that he attached to the various fraudulent income tax returns that he prepared.<sup>153</sup>

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<sup>148</sup> S.D. Tex., Sentencing Document filed June 22, 2016.

<sup>149</sup> S.D. Tex., Jury Verdict filed March 19, 2015.

<sup>150</sup> S.D. Tex., Indict. filed June 19, 2014.

<sup>151</sup> S.D. Tex., Indict. filed June 19, 2014.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*



To prepare a fraudulent income tax return for a taxpayer, Bruce would ask the taxpayer to supply him with financial information related to his or her bank accounts, credit cards, lenders, and the names of the cell phone company, electric utility company, *etc.*, with whom the taxpayer had executed contracts during the taxable year, as well as the principal amounts owed on such contracts. Bruce would then use this information to create false Forms 1099-OID. The false Forms 1099-OID would name as entities paying income to the taxpayer and withholding Federal tax, the banks, credit card companies, mortgage companies and other lenders, and the contracting companies that the taxpayer had supplied to Bruce. When filing his own fraudulent 2008 U.S. Individual Income Tax Return, Bruce listed the U.S. Treasury as the payer on the false Forms 1099-OID attached to his return.<sup>154</sup>

Bruce charged the taxpayers substantial fees to prepare the false income tax returns and also collected from the taxpayers approximately 35 percent of all income tax refunds received, despite falsely placing the words "self-prepared" in the boxes meant for the signature of the paid income tax return preparer.<sup>155</sup>

Bruce caused one taxpayer to file a frivolous lawsuit that named as a defendant an IRS civil collection officer who had taken steps in collecting amounts wrongly refunded on one of the fraudulent amended tax returns prepared by Bruce. Bruce also prepared for that taxpayer a fraudulent 2009 U.S. Income Tax Return for Trusts and Estates for a trust allegedly related to that taxpayer. This trust tax return falsely claimed a fraudulent income tax refund of \$351,856, which represented alleged withholdings of income from Original Issue Discount, and falsely named the IRS civil collection officer as the fiduciary of the alleged trust. Bruce also told other taxpayers to create trusts in order to avoid or to stymie IRS civil collection activity.<sup>156</sup>

Bruce was sentenced to a term of 180 months in custody, followed by three years of supervised release, and ordered to pay \$3,342,962.15 in restitution to the IRS.<sup>157</sup>

### **Delaware Restaurant Owner Indicted for Attempting to Bribe an IRS Employee**

On June 7, 2016, in the District of Delaware, Domenico Procope was indicted for bribery of a public official.<sup>158</sup> Procope had been arrested on May 18, 2016,<sup>159</sup> for knowingly and corruptly offering and promising something of value to an employee of the IRS with the intent to influence official acts.<sup>160</sup>

According to the court documents, Procope is a Delaware resident who owns and operates several restaurant establishments in the State. Procope had accumulated a

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<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> S.D. Tex. Sentencing Document filed June 22, 2016.

<sup>158</sup> D. Del. Indict. filed June 7, 2016.

<sup>159</sup> D. Del. Executed Arrest Warrant filed May 18, 2016.

<sup>160</sup> D. Del. Crim. Compl. filed May 16, 2016.





significant business-related and personal income tax liability, which, as of February 2016, had grown to a total amount of approximately \$531,000. Of that amount, Procope's personal liability was approximately \$434,000.<sup>161</sup>

Around October 2015, an IRS revenue officer was assigned to Procope's case and was working to resolve his tax liabilities. In December 2015, the revenue officer requested a personal financial statement from Procope. When Procope failed to provide the requested documentation, the revenue officer issued a Notice of Levy to the insurance company that maintains Procope's retirement account. As a result, approximately \$16,000 was turned over to the IRS from Procope's retirement account.

Prompted by the levy on his retirement account, in February 2016, Procope communicated with the revenue officer several times by telephone and in person to discuss his income tax liability. During these contacts, Procope offered to pay the IRS revenue officer a sum of money in exchange for the revenue officer's taking the official action of reducing or eliminating his income tax liabilities with the IRS.<sup>162</sup> Procope indicated he was not interested in submitting an offer in compromise to settle his IRS debts and told the revenue officer that he would give her \$70,000 to make his tax debt "go away."<sup>163</sup>

A subsequent meeting was held between Procope, his accountant, and the revenue officer at Procope's place of business in Bear, Delaware. Immediately after the departure of Procope's accountant from the meeting, Procope reiterated to the revenue officer that he had \$70,000 to resolve his tax debt. Procope proposed he pay \$40,000 to the Government and \$30,000 in cash for the revenue officer. Procope said the cash payment would be in exchange for a reduction in his IRS tax liabilities and indicated that he expected the revenue officer, in her official capacity, to cause the IRS to issue a letter stating that he had satisfied his personal liability of approximately \$434,000.<sup>164</sup>

The following day, the revenue officer again met with Procope. During this meeting, Procope gave the revenue officer a check in the amount of \$40,000, made payable to the IRS, with the memo "paid in full" written on the check. Additionally, he gave the revenue officer \$30,000 in cash.<sup>165</sup> Procope could face a maximum penalty of 15 years' imprisonment. Additional legal proceedings are anticipated.

### **Woman Falsely Claims to Be an IRS Employee to Obtain Loans and Purchase Vehicles**

On July 29, 2016, in the Western District of New York, Tamara Ward was sentenced for knowingly possessing an unlawful authentication feature of the United States.<sup>166</sup> In

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<sup>161</sup> *Id.*

<sup>162</sup> D. Del. Indict. filed June 7, 2016.

<sup>163</sup> D. Del. Crim. Compl. filed May 16, 2016.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> W.D. N.Y. Judgment filed Aug. 4, 2016.



September 2015, Ward was initially indicted for bank fraud and for making false statements on loan applications.<sup>167</sup> In May 2016, she pled guilty to a superseding information charging her with fraud in connection with the identification documents that were produced without lawful authority.<sup>168</sup>

According to the court documents, Ward knowingly executed a scheme to defraud two separate financial institutions and obtain funds from both by means of materially false and fraudulent pretenses and representations. Specifically, Ward prepared and signed two fraudulent loan applications, one for submission to Ally Financial, Inc. and one for JPMorgan Chase. In both applications, Ward falsely stated that she was employed by the IRS and had been for five years. She further claimed that she earned an annual salary of \$50,000. Ward made these false and fraudulent statements in order to obtain financing for an automobile loan from each of the aforementioned financial institutions, when in fact she well knew that she was not, and had not ever been, employed by the IRS.<sup>169</sup>

As a result of Ward's false statements on the loan applications, the banks' total aggregate loss was \$14,914.75. Ally Financial, Inc. disbursed \$9,914.75 toward Ward's purchase of a Chevrolet Avalanche, and JPMorgan Chase disbursed \$5,000 toward her purchase of a Chevrolet Impala.<sup>170</sup>

Ward was sentenced to probation for a period of three years and ordered to forfeit her interest in the Chevrolet Avalanche.<sup>171</sup>

### **U.S. Postal Service Employee and Coconspirator Indicted for Stealing IRS Refund Checks From the Mail**

On May 5, 2016, in the Southern District of Florida, Tara Marshea Tucker and David Earl Tucker were indicted for a conspiracy to steal Government funds from the mail and aggravated identity theft.<sup>172</sup>

According to the court documents, Tara and David Tucker knowingly and willfully conspired to steal and convert to their own use for the purpose of unjust enrichment, U.S. Treasury tax refund checks issued to other persons. As part of the conspiracy, Tara Tucker, a U.S. Postal Service employee, stole Federal income tax refund checks belonging to other individuals while in the performance of her duties as a postal carrier and provided them to David Tucker. David Tucker then cashed the stolen checks and distributed the proceeds among the conspirators.<sup>173</sup>

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<sup>167</sup> W.D. N.Y. Indict. filed Sep. 17, 2015.

<sup>168</sup> W.D. N.Y. Plea Agr. filed May 2, 2016; W.D. N.Y. Superseding Information filed May 2, 2016.

<sup>169</sup> W.D. N.Y. Indict. filed Sep. 17, 2015.

<sup>170</sup> W.D. N.Y. Plea Agr. filed May 2, 2016.

<sup>171</sup> W.D. N.Y. Judgment filed Aug. 4, 2016.

<sup>172</sup> S.D. Fla. Indict. filed May 6, 2016.

<sup>173</sup> *Id.*



In July 2015, Tara Tucker stole a Federal income tax refund check payable to another individual in the amount of \$8,578.47. The check had been entrusted to her and came into her possession with the intent that it be conveyed by mail and delivered by Tucker as an employee of the Postal Service. She instead provided the refund check to David Tucker, who knew the check had been stolen from an authorized U.S. mail depository in Miami, Florida.<sup>174</sup>

Additionally, during and in relation to the felony offense of theft of Government funds, Tara and David Tucker knowingly transferred, possessed, and used, without lawful authority, the means of identification of another person, to wit, the name and address of the individual to whom the refund check had been issued. In August 2015, David Tucker sent a text message to an individual with the same name as the victim in an effort to cash the check, and subsequently sent another text with the victim's address, which was identical to the address on the refund check. The following day, David Tucker was found in possession of the stolen \$8,578.47 refund check.<sup>175</sup>

Each could face a maximum of 10 years in prison for the theft of Government funds, plus two additional years for the aggravated identity theft.<sup>176</sup> Additional legal proceedings are anticipated.

## **Tax Preparer Outreach**

In addition to promoting employee integrity, TIGTA is also committed to educating tax preparers on integrity. During this semiannual reporting period, TIGTA special agents provided integrity presentations to tax preparers at IRS tax forums nationwide. The title of these presentations was "*TIGTA & You: Protecting Clients and Taxpayers.*"

The presentations informed tax preparers of TIGTA's role in protecting the integrity of tax administration, differentiating between TIGTA's jurisdiction and the IRS's, identifying various forms of preparer misconduct, and describing common IRS impersonation scams.

These outreach efforts are important due to the influence that tax preparers have on tax compliance or non-compliance. Tax preparers can either assist in the enforcement of tax administration by ensuring taxpayers' compliance with Internal Revenue laws or they can impede it.

The following case represents OI's efforts to protect tax administration from unscrupulous tax preparers during this six-month reporting period:

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<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*



## California Tax Return Preparer Pleads Guilty to Federal Charges for Defrauding Clients

On June 21, 2016,<sup>177</sup> in the Central District of California, Hollywood Hills resident Michael J. Calalang Cabuhat pled guilty to wire fraud and subscribing to a false tax return.<sup>178</sup> Cabuhat had been arrested in April 2016 on charges of wire fraud, aggravated identity theft, and structuring financial transactions.<sup>179</sup>

According to court documents, Cabuhat was the Executive Vice President and 50 percent owner of VisionQwest Resource Group, Inc., which operated VisionQwest Accountancy Group (VAG), located in Glendale, California. Later, he also did business as Icon Tax Group. From 2010 to April 2016, Cabuhat knowingly devised and participated in a scheme to defraud VAG's clients and obtain money by means of false and fraudulent representations.<sup>180</sup>

In furtherance of the scheme, Cabuhat defrauded customers of his tax preparation business in at least two ways. In some instances, Cabuhat would show a small refund on the copy of the tax return that he had prepared for his client, whereas he would claim a larger refund on the return that Cabuhat actually filed with the IRS. Without the client's knowledge, Cabuhat would attach a form to the filed tax return directing the larger refund into a bank account he controlled.<sup>181</sup>

In other cases, Cabuhat would falsely show a tax liability due on the client's copy of the tax return, but then claim a refund on the return that he would file with the IRS. In these instances, Cabuhat would tell the client-taxpayer to make the "tax payment" directly to him so he could send the payment to the IRS. In fact, Cabuhat would keep the "tax payment" made by the client and direct the IRS to deposit the refund that Cabuhat claimed on the filed tax return into a bank account that he controlled.<sup>182</sup>

Between 2010 and 2015, Cabuhat allegedly used this scheme to obtain and attempt to obtain more than \$1.2 million in tax refunds that should have gone to 144 clients.<sup>183</sup>

Cabuhat claimed to be an enrolled agent; however, the investigation confirmed that he is not, and has never been, an enrolled agent. As defined by the IRS, an enrolled agent is a person who has earned the privilege of representing taxpayers before the IRS, either by passing a three-part comprehensive IRS test covering individual and business tax returns or as a result of experience as a former IRS employee. This credential is the highest that the IRS awards. Cabuhat also stated that he was a licensed CPA in the Philippines, but he does not hold a CPA license issued in the United States.<sup>184</sup>

<sup>177</sup> C.D. Cal. Crim. Docket filed June 15, 2016.

<sup>178</sup> C.D. Cal. Plea Agr. filed June 15, 2016.

<sup>179</sup> C.D. Cal. Crim. Docket as of July 14, 2016.

<sup>180</sup> C.D. Cal. Information filed June 15, 2016.

<sup>181</sup> C.D. Cal. Crim. Compl. filed April 5, 2016.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*



In addition to the tax refund scheme, in September 2014, Cabuhat structured cash deposits to avoid Federal bank reporting requirements. Specifically, Cabuhat made three separate cash deposits of \$9,900 each over seven days, totaling \$29,700. On the day after these structured transactions were completed, Cabuhat wrote a \$24,500 check to purchase a Ferrari.<sup>185</sup>

As part of the plea agreement, Cabuhat will be forbidden from engaging in any aspect of preparing tax returns other than for himself and his legal spouse, as well as from owning, operating, or managing a tax preparation business. He agreed to forfeit his 2001 Ferrari 360 Spider vehicle. Cabuhat admitted that he received at least \$957,822 in unreported income and agreed to cooperate with the IRS to determine his tax liability and to pay additional taxes, penalties, and interest, including fraud penalties. Cabuhat will also be required to pay full restitution of at least \$957,822 to the victims.<sup>186</sup>

Cabuhat could face a maximum of 23 years' imprisonment for the offenses.<sup>187</sup> Sentencing is scheduled for November 21, 2016.<sup>188</sup> The investigation was conducted jointly by agents of TIGTA and IRS Criminal Investigation.<sup>189</sup>

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<sup>185</sup> *Id.*

<sup>186</sup> C.D. Cal. Plea Agr. filed June 15, 2016.

<sup>187</sup> *Id.*

<sup>188</sup> C.D. Cal. Crim. Docket as of Sep. 8, 2016.

<sup>189</sup> C.D. Cal. Crim. Compl. filed April 5, 2016.







## Advancing Oversight of America's Tax System

**T**IGTA's Office of Inspections and Evaluations (I&E) provides responsive, timely, and cost-effective inspections and evaluations of challenging areas within the IRS, providing TIGTA with additional flexibility and capability to produce value-added products and services to improve tax administration.

This function has two primary product lines: inspections and evaluations.

Inspections are intended to:

- Provide factual and analytical information;
- Monitor compliance;
- Measure performance;
- Assess the effectiveness and efficiency of programs and operations;
- Share best practices; and
- Inquire into allegations of waste, fraud, abuse, and mismanagement.

Evaluations are intended to:

- Provide in-depth reviews of specific management issues, policies, or programs;
- Address Governmentwide or multi-agency issues; and
- Develop recommendations to streamline operations, enhance data quality, and minimize inefficient and ineffective procedures.

The following reports highlight some of the significant activities that I&E engaged in during this six-month reporting period:

### **The Offer in Compromise Public Inspection Files Should Be Modernized**

The I.R.C. permits public inspection of accepted Offer in Compromise (OIC) case files. Once an OIC is accepted, the IRS creates a hard-copy public inspection file that is shipped to one of seven locations around the country, based on the taxpayer's geographical residence. To view OIC files, individuals must call the IRS in advance and request an appointment. If public inspection files are not properly redacted, public inspection sites expose sensitive taxpayer information to the risk of unauthorized disclosure and put taxpayers at risk of identity theft. TIGTA believes that a centralized website available to the public presents an opportunity to decrease taxpayer burden and IRS costs while increasing transparency.

In the wake of a series of high-profile scandals in the early 1950s, the IRS was required to provide the public with access to information about accepted OICs. Although the IRS now accepts 20 times more OICs than it did when they first became subject to public





inspection, the activity continues to rely on labor-intensive procedures to store the files in a decentralized, paper-based system. In this current environment, it is a challenge for the IRS to ensure that paper-based files are available for review at designated locations, after sensitive taxpayer information has been properly redacted. When TIGTA's review began, the IRS had not evaluated options to modernize its delivery method to meet shifting taxpayer preferences, improve access to information, and better protect sensitive information. TIGTA identified several improvements that are needed to ensure that the activity is managed more efficiently and effectively. During the course of this review, the IRS updated written procedures related to the public inspection files, expanded the use of automated redaction tools, and initiated the evaluation of alternative file storage methods.

TIGTA recommended that the Commissioner, Small Business/Self-Employed (SB/SE) Division, develop processes to convert paper-based OIC public inspection files to an electronic format to better manage the retrieval, movement, retention, and destruction of files. In addition, the IRS should consider the feasibility of creating a public website that provides online access to all accepted OIC files while ensuring that sensitive information is properly redacted. TIGTA also recommended that the Commissioner, SB/SE Division, and the Chief, Appeals, should develop additional policies and procedures to support the OIC public inspection file process and ensure that public inspection files meet redaction requirements. These procedures should define the responsibilities of individuals who create the public inspection files. The Commissioner, SB/SE Division, should partner with the Chief, Appeals, to strengthen oversight of the public inspection files by participating in joint oversight reviews.

In response to the report, IRS officials agreed with our recommendations.

**Reference No. 2016-IE-R008**

### **Selected Taxpayer Assistance Centers Were Professional and Organized, and Sensitive Information and Equipment Were Properly Secured**

This project was initiated to determine whether selected Taxpayer Assistance Centers (TAC) were professional and organized and whether sensitive information and equipment were properly secured.

As of December 2015, the Field Assistance Office within the Wage and Investment Division was responsible for 376 TACs. The TACs traditionally provide taxpayers with face-to-face assistance to resolve tax issues, answer tax law questions, make adjustments to tax accounts, accept completed tax returns and payments, establish payment agreements for qualified individuals, and provide tax forms and publications.

TIGTA found that the 33 TACs visited in February through April 2016 were generally well organized and professional. The number of customers waiting for service varied significantly depending on whether or not the TAC accepted appointments. At 18 TACs that did not offer appointments, TIGTA found that 25 or more customers were waiting for service, and at three locations the lines limited entry and egress to the buildings. Further, at eight TACs the Publication 5002, *Closing Notice Sign*, was posted before the



normal 4:30 p.m. closing time, and in two of the eight instances the signs were posted at approximately 9:30 a.m. and 10:25 a.m. respectively. Conversely, at the 15 TACs that offered appointments, TIGTA most often observed four or fewer customers waiting for service.

At five TACs, some employees were not wearing the required name tags, and only seven TACs had all of the current versions of required signs displayed that provide information and directions to TAC customers. TIGTA also found that TAC employees adequately secured IRS stamps at 31 TACs. Additionally, employees properly secured materials required for document authentication at most of the TACs inspected that provide document authentication services.

TIGTA made no recommendations.

**Reference No. 2016-IE-R010**









## Congressional Testimony

On April 12, 2016, Inspector General J. Russell George testified before the Senate Finance Committee regarding cybersecurity and protecting taxpayer information. He was accompanied by Michael McKenney, Deputy Inspector General for Audit.

In his testimony, the Inspector General stated that cybersecurity threats are a growing concern for the IRS because of the extensive amount of taxpayer information it stores in its information technology systems. He also addressed recent cybersecurity incidents involving two IRS online service applications as examples of the inadequacy of current data security measures.

The Inspector General described actions that the IRS needs to take to better protect taxpayer information, including fully implementing unique user identification and authentication processes that comply with Department of Homeland Security directives, to ensure that only authorized personnel can access computer systems and facilities.

Web applications that provide online services are increasingly vulnerable because hackers can and have cleared the IRS's authentication process to gain access to and steal valuable taxpayer information, the Inspector General testified, citing the recent breaches to the IRS's Get Transcript and IP PIN applications as examples.

On April 14, 2016, the Inspector General testified on the protection of taxpayers' information before the House Committee on Science, Space, and Technology Subcommittee on Research and Technology. Mr. George advised the subcommittee that, over the past five years, TIGTA has identified the security of taxpayer data as the most serious management challenge confronting the IRS. Mr. George reported that TIGTA has identified a number of areas in which the IRS could improve performance in its efforts to protect taxpayer data.

Recent security incidents that involved two of the IRS's online service applications are prime examples of what can go wrong when security is inadequate. While the IRS had established processes and procedures to authenticate individuals requesting online access to IRS services, those processes and procedures did not comply with Government standards.

For example, the processes that the IRS used to authenticate users of the Get Transcript and IP PIN applications required only single-factor authentication. However, Government standards require multifactor authentication for such high-risk applications. Of further concern, the authentication framework used for these applications did not comply with Government standards for single-factor authentication.

Until the IRS takes steps to improve these security program deficiencies and fully implement all security program areas in compliance with requirements, taxpayer data will remain vulnerable to inappropriate and undetected use, modification, or disclosure.



On April 19, 2016, Deputy Inspector General for Investigations Timothy P. Camus testified before the House Ways and Means Subcommittee on Oversight regarding the status of the 2016 Filing Season, the security of taxpayer data, and tax refund fraud.

In his testimony, the Deputy Inspector General described the IRS's efforts to provide assistance to taxpayers through its toll-free telephone lines, TACs, and [www.irs.gov](http://www.irs.gov). As a result of the IRS receiving additional funding for customer service for FY 2016, the IRS is forecasting a 65 percent level of service for the 2016 Filing Season, which is an increase from the 38 percent originally forecast.

In addition to discussing the Get Transcript and IP PIN data breaches, the Deputy Inspector General described the telephone impersonation scam in which more than one million intended victims have received unsolicited telephone calls from individuals falsely claiming to be IRS or Department of the Treasury employees. The callers demand money under the pretense that their victims owe unpaid taxes. Victims are informed that if they do not immediately call a telephone number provided in the message, they will face arrest and possibly a lawsuit. TIGTA has made several arrests in connection with this scam and has numerous investigations underway.



# Audit Statistical Reports

## Reports With Questioned Costs

TIGTA issued two audit reports with questioned costs during this semiannual reporting period. The phrase “questioned costs” means costs that are questioned because of:

- An alleged violation of a provision of a law, regulation, contract, or other requirement governing the expenditure of funds;
- A finding, at the time of the audit, that such cost is not supported by adequate documentation (an unsupported cost); or
- A finding that expenditure of funds for the intended purpose is unnecessary or unreasonable.

The phrase “disallowed cost” means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government.

Reports With Questioned Costs			
Report Category	Number	Questioned Costs <sup>190</sup> (in thousands)	Unsupported Costs (in thousands)
1. Reports with no management decision at the beginning of the reporting period	9	\$45,167	\$0
2. Reports issued during the reporting period	2	\$375	\$0
<b>3. Subtotals (Item 1 plus Item 2)<sup>191</sup></b>	<b>11</b>	<b>\$45,543</b>	<b>\$0</b>
4. Reports for which a management decision was made during the reporting period			
a. Value of disallowed costs	0	\$0	\$0
b. Value of costs not disallowed	0	\$0	\$0
<b>5. Reports with no management decision at the end of the reporting period (Item 3 minus Item 4)</b>	<b>11</b>	<b>\$45,543</b>	<b>\$0</b>
6. Reports with no management decision within six months of issuance	9	\$45,167	\$0

<sup>190</sup> “Questioned costs” includes “unsupported costs.”

<sup>191</sup> Difference in amount due to rounding.



## Reports With Recommendations That Funds Be Put to Better Use

TIGTA issued one audit report during this semiannual reporting period with the recommendation that funds be put to better use.<sup>192</sup> The phrase “recommendation that funds be put to better use” means funds could be used more efficiently if management took actions to implement and complete the recommendation, including:

- Reductions in outlays;
- Deobligations of funds from programs or operations;
- Costs not incurred by implementing recommended improvements related to operations;
- Avoidance of unnecessary expenditures noted in pre-award reviews of contract agreements;
- Prevention of erroneous payment of refundable credits, e.g., Earned Income Tax Credit; or
- Any other savings that are specifically identified.

The phrase “management decision” means the evaluation by management of the findings and recommendations included in an audit report, and the issuance of a final decision concerning its response to such findings and recommendations, including actions deemed necessary.

Reports With Recommendations That Funds Be Put to Better Use		
Report Category	Number	Amount (in thousands)
1. Reports with no management decision at the beginning of the reporting period	0	\$0
2. Reports issued during the reporting period	1	\$2,700
<b>3. Subtotals (Item 1 plus Item 2)</b>	<b>1</b>	<b>\$2,700</b>
4. Reports for which a management decision was made during the reporting period		
a. Value of recommendations to which management agreed		
i. Based on proposed management action	1	\$2,700
ii. Based on proposed legislative action	0	\$0
b. Value of recommendations to which management did not agree	0	\$0
<b>5. Reports with no management decision at the end of the reporting period (Item 3 minus Item 4)</b>	<b>0</b>	<b>\$0</b>
6. Reports with no management decision within six months of issuance	0	\$0

<sup>192</sup> See Appendix II for identification of audit report involved.



## Reports With Additional Quantifiable Impact on Tax Administration

In addition to questioned costs and funds put to better use, the Office of Audit has identified measures that demonstrate the value of audit recommendations to tax administration and business operations. These issues are of interest to executives at the IRS and the Department of the Treasury, Members of Congress, and the taxpaying public, and are expressed in quantifiable terms to provide further insight into the value and potential impact of the Office of Audit's products and services. Including this information also promotes adherence to the intent and spirit of the *Government Performance and Results Act*.

*Definitions of these additional measures are:*

**Increased Revenue:** Assessment or collection of additional taxes.

**Revenue Protection:** Ensuring the accuracy of the total tax, penalties, and interest paid to the Federal Government.

**Reduction of Burden on Taxpayers:** Decreases by individuals or businesses in the need for, frequency of, or time spent on communication, recordkeeping, preparation, or costs to comply with tax laws, regulations, and IRS policies and procedures.

**Taxpayer Rights and Entitlements at Risk:** The protection of due process (rights) granted to taxpayers by law, regulation, or IRS policies and procedures. These rights most commonly arise when filing tax returns, paying delinquent taxes, and examining the accuracy of tax liabilities. The acceptance of claims for and issuance of refunds (entitlements) are also included in this category, such as when taxpayers legitimately assert that they overpaid their taxes.

**Taxpayer Privacy and Security:** Protection of taxpayer financial and account information (privacy). Processes and programs that provide protection of tax administration, account information, and organizational assets (security).

**Inefficient Use of Resources:** Value of efficiencies gained from recommendations to reduce cost while maintaining or improving the effectiveness of specific programs; resources saved would be available for other IRS programs. Also, the value of internal control weaknesses that resulted in an unrecoverable expenditure of funds with no tangible or useful benefit in return.

**Reliability of Management Information:** Ensuring the accuracy, validity, relevance, and integrity of data, including the sources of data and the applications and processing thereof, used by the organization to plan, monitor, and report on its financial and operational activities. This measure will often be expressed as an absolute value, *i.e.*, without regard to whether a number is positive or negative, of overstatements or understatements of amounts recorded on the organization's documents or systems.





**Protection of Resources:** Safeguarding human and capital assets, used by or in the custody of the organization, from accidental or malicious injury, theft, destruction, loss, misuse, overpayment, or degradation.

The numbers of taxpayer accounts and dollar values shown in the following chart were derived from analyses of historical data, and are thus considered potential barometers of the impact of audit recommendations. Actual results will vary depending on the timing and extent of management's implementation of the corresponding corrective actions, and the number of accounts or subsequent business activities affected as of the dates of implementation. Also, a report may have issues that affect more than one outcome measure category.

Reports With Additional Quantifiable Impact on Tax Administration			
Outcome Measure Category	Number of Reports <sup>193</sup>	Number of Taxpayer Accounts	Dollar Value (in thousands)
Increased Revenue	8	134,442	\$3,200,260
Revenue Protection	6	2,127	\$8,994,707
Reduction of Burden on Taxpayers	3	58,043	\$0
Taxpayer Rights and Entitlements at Risk	6	4,045	\$308
Taxpayer Privacy and Security	3	705,729	\$0
Inefficient Use of Resources	1	0	\$12,091
Reliability of Management Information	7	227	\$0
Protection of Resources	3	0	\$468

Management did not agree with the outcome measures in the following reports:

- Increased Revenue: Reference Numbers 2016-30-031, 2016-40-024, 2016-30-030, 2016-30-070, 2016-30-085, and 2016-40-091;
- Revenue Protection: Reference Numbers 2016-40-024, 2016-30-032, 2016-40-078 and 2016-40-091;
- Reduction of Burden on Taxpayers: Reference Numbers 2016-30-047 and 2016-10-054;
- Taxpayer Rights and Entitlements at Risk: Reference Number 2016-30-043;
- Taxpayer Privacy and Security: Reference Number 2016-40-037;
- Inefficient Use of Resources: Reference Number 2016-20-080; and

<sup>193</sup> See Appendix II for identification of audit reports involved.



- Reliability of Management Information: Reference Numbers 2016-40-065 and 2016-40-078.

The following reports contained quantifiable impacts other than the number of taxpayer accounts and dollar value:

- Taxpayer Rights and Entitlements at Risk: Reference Number 2016-30-072;
- Taxpayer Privacy and Security: Reference Numbers 2016-10-038 and 2016-30-072;
- Reliability of Information: Reference Numbers 2016-40-045, 2016-10-038, 2016-10-056, 2016-10-057, 2016-10-068 and 2016-40-078; and
- Protection of Resources: Reference Numbers 2016-10-048 and 2016-10-039.



# Investigations Statistical Reports

<b>Significant Investigative Achievements</b> <b>April 1, 2016 – September 30, 2016</b>	
<b>Complaints/Allegations Received by TIGTA</b>	
Complaints against IRS Employees	2,749
Complaints against Non-Employees	5,746
<b>Total Complaints/Allegations</b>	<b>8,495</b>
<b>Status of Complaints/Allegations Received by TIGTA</b>	
Investigations Initiated	1,056
In Process within TIGTA <sup>194</sup>	1,160
Referred to IRS for Action	568
Referred to IRS for Information Only	1,353
Referred to a Non-IRS Entity <sup>195</sup>	0
Closed with No Referral	623
Closed Associated with Prior Investigation	3,443
Closed with All Actions Completed	292
<b>Total Complaints</b>	<b>8,495</b>
<b>Investigations Opened and Closed</b>	
Total Investigations Opened	1,436
Total Investigations Closed	1,506
<b>Financial Accomplishments</b>	
Embezzlement/Theft Funds Recovered	\$4,545
Contract Fraud and Overpayments Recovered	0
Court Ordered Fines, Penalties and Restitution	\$13,365,858
Out-of-Court Settlements	0
Potentially Compromised by Bribery	0
Tax Liability of Taxpayers Who Threaten and/or Assault IRS Employees	\$3,671,720
IRS Assets and Resources Protected Against Malicious Loss	\$440,230,484
<b>Total Financial Accomplishments</b>	<b>\$457,272,607</b>

<sup>194</sup> Complaints for which final determination had not been made at the end of the reporting period.

<sup>195</sup> A non-IRS entity includes other law enforcement entities or Federal agencies.



Status of Closed Criminal Investigations			
Criminal Referral	Employee	Non-Employee	Total
Referred – Accepted for Prosecution	18	33	51
Referred – Declined for Prosecution	236	164	400
Referred – Pending Prosecutorial Decision	17	49	66
<b>Total Criminal Referrals<sup>196</sup></b>	<b>271</b>	<b>246</b>	<b>517</b>
<b>No Referral</b>	<b>360</b>	<b>559</b>	<b>919</b>

Criminal Dispositions <sup>197</sup>			
Criminal Disposition	Employee	Non-Employee	Total
Guilty	15	34	49
Nolo Contendere (No Contest)	3	2	5
Pre-trial Diversion	2	0	2
Deferred Prosecution <sup>198</sup>	1	0	1
Not Guilty	0	2	2
Dismissed <sup>199</sup>	0	3	3
<b>Total Criminal Dispositions</b>	<b>21</b>	<b>41</b>	<b>62</b>

Administrative Dispositions on Closed Investigations <sup>200</sup>	
Administrative Disposition	Total
Removed / Terminated	21
Suspended / Reduction in Grade	67
Resigned / Retired / Separated Prior to Adjudication	63
Oral or Written Reprimand / Admonishment	124
Clearance Letter / Closed, No Action Taken	114
Alternative Discipline / Letter with Cautionary Statement / Other	116
Non-Employee Actions <sup>201</sup>	289
<b>Total Administrative Dispositions</b>	<b>794</b>

<sup>196</sup> Criminal referrals include both Federal and State dispositions.

<sup>197</sup> Final criminal dispositions during the reporting period. These data may pertain to investigations referred criminally in prior reporting periods and do not necessarily relate to the investigations referred criminally in the Status of Closed Criminal Investigations table above.

<sup>198</sup> Generally in a deferred prosecution, the defendant accepts responsibility for his/her actions, and complies with certain conditions imposed by the court. Upon the defendant's completion of the conditions, the court dismisses the case. If the defendant fails to fully comply, the court reinstates prosecution of the charge.

<sup>199</sup> Court dismissed charges.

<sup>200</sup> Final administrative dispositions during the reporting period. These data may pertain to investigations referred administratively in prior reporting periods and do not necessarily relate to the investigations closed in the Investigations Opened and Closed table. These data, as reported, reflect a change in the way administrative dispositions were previously categorized.

<sup>201</sup> Administrative actions taken by the IRS against non-IRS employees.









# Appendix I

## Statistical Reports - Other

### Audit Reports With Significant Unimplemented Corrective Actions

The Inspector General Act of 1978 requires the identification of significant recommendations described in previous semiannual reports for which corrective actions have not been completed. The following list is based on information obtained from the Department of the Treasury's Joint Audit Management Enterprise System.

Reference Number	IRS Management Challenge Area	Issued	Projected Completion Date	Report Title and Recommendation Summary (F = Finding No., R = Recommendation No.)
2011-20-046	Security for Taxpayer Data and IRS Employees	May 2011	11/15/16	<b><i>Access Controls for the Automated Insolvency System Need Improvement</i></b>  F-1, R-1. Identify incompatible duties and implement policies to segregate those duties, issue a memorandum to program managers requiring them to adhere to the new policy when assigning duties and approving Automated Insolvency System access privileges, and designate a limited number of employees to perform the User Administrator duties.
2013-40-009	Fraudulent Claims and Improper Payments	December 2012	12/15/18	<b><i>Many Taxpayers Are Still Not Complying With Noncash Charitable Contribution Reporting Requirements</i></b>  F-1, R-2. Capture the contribution date, donee signature and/or acknowledgement date, and Declaration of Appraiser, and type of property donated from Forms 8283 and develop processes to use the information to ensure that taxpayers are meeting the requirements for claiming deductions for noncash charitable contributions.
2013-40-122	Fraudulent Claims and Improper Payments	September 2013	06/15/17	<b><i>Detection Has Improved; However, Identity Theft Continues to Result in Billions of Dollars in Potentially Fraudulent Tax Refunds</i></b>  F-1, R-1. Implement a process to deactivate Individual Taxpayer Identification Numbers (ITIN) assigned to individuals prior to January 1, 2013, who no longer have a tax filing requirement.
2014-10-033	Providing Quality Taxpayer Service Operations	June 2014	03/31/17  03/31/17	<b><i>The Taxpayer Advocate Service Can Improve the Processing of Systemic Burden Cases</i></b>  F-1, R-1. Reissue guidance to explain the requirement to only contact authorized representatives when applicable, and emphasize this in future training. F-1, R-3. Review the results of sample findings and incorporate lessons learned into future training.
2014-40-084	Improving Tax Systems and Online Services	September 2014	01/15/17	<b><i>A Service-Wide Strategy Is Needed to Increase Business Tax Return Electronic Filing</i></b>  F-2, R-1. Develop a less burdensome electronic signature process for businesses e-filing employment tax returns using the Modernized e-File system.



Reference Number	IRS Management Challenge Area	Issued	Projected Completion Date	Report Title and Recommendation Summary (F = Finding No., R = Recommendation No.)
2014-20-088	Improving Tax Systems and Online Services	September 2014	03/25/17	<b><i>The Information Reporting and Document Matching Case Management System Could Not Be Deployed</i></b>  F-1, R-2. Ensure that the Information Reporting and Document Matching Case Management (IRDMCM) System requirements are completely identified.
2015-40-024	Providing Quality Taxpayer Service Operations	March 2015	12/15/16	<b><i>Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds</i></b>  F-1, R-1. Complete an analysis of identity theft case reassignments and revise inventory management processes to reduce the number of times cases are reassigned.
2015-10-025	Tax Compliance Initiatives	March 2015	01/15/17	<b><i>Status of Actions Taken to Improve the Processing of Tax-Exempt Applications Involving Political Campaign Intervention</i></b>  F-1, R-2. If the Optional Expedited Process for I.R.C. § 501(c)(4) organizations becomes a permanent process, the IRS should consider providing this option to additional organizations with similar political campaign intervention limitations.
2015-30-052	Globalization	July 2015	09/29/17	<b><i>Improvement Is Needed in Compliance Efforts to Identify Unsupported Claims for Foreign Tax Credits</i></b>  F-2, R-1. Develop a compliance strategy to address the risks identified with the Foreign Tax Credit (FTC), including the issues of taxpayers receiving both the credit and the deduction for the same foreign tax payments, and taxpayers claiming the FTC without the proper third-party information return documentation.
2015-30-056	Globalization	July 2015	09/29/17 09/29/17 04/15/17	<b><i>Improvements Are Needed to Verify Taxpayer Claims for Exemption from United States Social Security Taxes Under Totalization Agreements</i></b>  F-1, R-1. Use existing procedures to work with the Social Security Administration (SSA) on establishing a process to periodically acquire Certificate of Coverage data. F-1, R-2. Coordinate with the SSA Competent Authority to request data from countries with which the United States has Totalization Agreements, related to foreign social security taxes paid by American citizens, resident aliens, or withheld and paid by American employers, that would help the IRS ensure compliance with the United States Social Security tax laws. F-1, R-3. Use the data obtained from the other Totalization Agreement countries and the SSA to identify noncompliance with payment of United States Social Security and Medicare taxes.



Reference Number	IRS Management Challenge Area	Issued	Projected Completion Date	Report Title and Recommendation Summary (F = Finding No., R = Recommendation No.)
2015-40-082	Taxpayer Protection and Rights	September 2015	02/15/17 02/15/17 10/15/16	<b><i>Processes Are Being Established to Detect Business Identity Theft; However, Additional Actions Can Help Improve Detection</i></b>  F-1, R-1. Ensure that processes and procedures are in place to lock the business tax accounts associated with suspicious Employer Identification Numbers (EIN). F-1, R-2. Establish a systemic process to identify tax returns filed using an EIN of a business not having a filing requirement to ensure the legitimacy of the filing and any refund claimed. F-3, R-1. Continue to develop and offer additional outreach material that directly informs businesses about business identity theft, the risks involved, how to protect themselves, and who to contact if they suspect their business's identity has been stolen.
2015-40-089	Achieving Program Efficiencies and Cost Savings	September 2015	12/15/16 10/15/16	<b><i>Additional Actions to Enforce Payment Card Reporting Requirements Could Reduce the Tax Gap</i></b>  F-1, R-1. Establish a process to identify and enforce backup withholding requirements on payers submitting Forms 1099-K with missing or incorrect payee Taxpayer Identification Numbers (TIN). F-4, R-1. Add an indicator on the TIN Matching Program alerting a payer of a payee's use of a deceased taxpayer TIN.
2016-40-006	Fraudulent Claims and Improper Payments	November 2015	On Hold	<b><i>Improvements Are Needed to Better Ensure That Refunds Claimed on Potentially Fraudulent Tax Returns Are Not Erroneously Released</i></b>  F-2, R-1. Develop a process to ensure that tax examiners verify a potentially erroneous refund claimed by a taxpayer within the 11 week hold period or place an unexpiring refund hold marker on the taxpayer's account to hold the refund longer until verification can be completed as required.
2016-40-007	Fraudulent Claims and Improper Payments	November 2015	12/15/16	<b><i>Improved Tax Return Filing and Tax Account Access Authentication Processes and Procedures Are Needed</i></b>  F-2, R-1. Ensure that the level of authentication risk for all current and future IRS online applications accurately reflects the risk to the IRS and taxpayers should an authentication error occur.
2016-40-008	Fraudulent Claims and Improper Payments	December 2015	On Hold 12/15/16	<b><i>Continued Refinement of the Return Review Program Identity Theft Detection Models Is Needed to Increase Detection</i></b>  F-2, R-2. Ensure that tax examiners reverse the fraudulent tax return data entries from the taxpayer's account and place an identity theft indicator on the taxpayer's account for an undelivered check when the taxpayer has not satisfactorily resolved the issue after 30 calendar days. F-2, R-3. Develop processes and procedures to place an identity theft indicator and remove the fraudulent tax return data for those taxpayer accounts for which a paper refund check is cancelled because it remains uncashed after 14 months.





Reference Number	IRS Management Challenge Area	Issued	Projected Completion Date	Report Title and Recommendation Summary (F = Finding No., R = Recommendation No.)
2016-40-028	Fraudulent Claims and Improper Payments	March 2016	On Hold  03/15/17  On Hold  On Hold  10/15/17	<b><i>Revising Tax Debt Identification Programming and Correcting Procedural Errors Could Improve the Tax Refund Offset Program</i></b>  <u>F-1, R-1.</u> Revise identification processes to include sole proprietor information from Form SS-4 to identify individual tax refunds to offset to business tax debt. <u>F-2, R-2.</u> Ensure that a manual freeze is input on a primary taxpayer's account when the secondary taxpayer's account has an outstanding tax debt. <u>F-2, R-4.</u> Revise computer programming to ensure that credit elects are offset to any associated tax debt on the Non-Master File. <u>F-3, R-1.</u> Revise computer programming to use the Limited Liability Company (LLC) indicator on the business tax account to ensure that individual tax refunds are not offset to the associated LLC's business tax debt. <u>F-3, R-2.</u> Identify and transfer the incorrect offsets totaling \$780,474 from the 502 LLC accounts back to the individual taxpayer accounts. In addition, identify other accounts with incorrect offsets subsequent to the time frame of TIGTA's Tax Year 2013 analysis until programming is corrected and transfer incorrectly offset refunds back to the individual taxpayer accounts.





## Other Statistical Reports

The Inspector General Act of 1978 requires Inspectors General to address the following issues:	
Issue	Result for TIGTA
<b>Access to Information</b> Report unreasonable refusals of information available to the agency that relate to programs and operations for which the Inspector General has responsibilities.	As of September 30, 2016, there were no instances where information or assistance requested by the Office of Audit was refused.
<b>Disputed Audit Recommendations</b> Provide information on significant management decisions in response to audit recommendations with which the Inspector General disagrees.	As of September 30, 2016, there were no instances where significant recommendations were disputed.
<b>Revised Management Decisions</b> Provide a description and explanation of the reasons for any significant revised management decisions made during the reporting period.	As of September 30, 2016, there were no significant revised management decisions.
<b>Audit Reports Issued in the Prior Reporting Period With No Management Response</b> Provide a summary of each audit report issued before the beginning of the current reporting period for which no management response has been received by the end of the current reporting period.	As of September 30, 2016, there were no prior reports where management's response was not received.
<b>Review of Legislation and Regulations</b> Review existing and proposed legislation and regulations, and make recommendations concerning the impact of such legislation or regulations.	TIGTA's Office of Chief Counsel reviewed 240 proposed regulations and legislative requests during this reporting period.



# Appendix II

## Audit Products

### April 1, 2016 – September 30, 2016

Audit Products	
Reference Number	Report Title
<b>April 2016</b>	
2016-1C-026	Supplement Audit of the Contractor's Federal Proposed Amounts on Unsettled Flexibly Priced Contracts for Fiscal Year 2009 (Questioned Costs: \$374,821)
2016-30-031	Opportunities Exist to Identify and Examine Individual Taxpayers Who Deduct Potential Hobby Losses to Offset Other Income (Increased Revenue: \$354,328,060)
2016-40-036	Without Expanded Error Correction Authority, Billions of Dollars in Identified Potentially Erroneous Earned Income Credit Claims Will Continue to Go Unaddressed Each Year
2016-40-024	Available Data Are Not Being Used to Proactively Identify Potentially Erroneous Rehabilitation Credit Claims (Increased Revenue: \$741,728 impacting 4 taxpayer accounts; Revenue Protection: \$154,639 impacting 12 taxpayer accounts)
<b>May 2016</b>	
2016-40-037	The Internal Revenue Service Did Not Identify and Assist All Individuals Potentially Affected by the Get Transcript Application Data Breach (Taxpayer Privacy and Security: 705,729 taxpayer accounts impacted; Taxpayer Burden: 32,133 taxpayer accounts impacted)
2016-23-040	Affordable Care Act Compliance Validation System: Security and Testing Risks
2016-30-032	Improvements Are Necessary to Ensure That Individual Amended Returns With Claims for Refunds and Abatements of Taxes Are Properly Reviewed (Revenue Protection: \$171,950,000)
2016-40-042	Injured Spouse Cases Were Not Always Timely Resolved, Resulting in the Unnecessary Payment of Interest (Funds Put to Better Use: \$2,700,000)
<b>June 2016</b>	
2016-30-030	Improvements Are Needed in Offshore Voluntary Disclosure Compliance and Processing Efforts (Increased Revenue: \$21,603,708 impacting 777 taxpayer accounts)
2016-40-045	Better Adherence to Procedures Is Needed to Accurately Assess the Volunteer Tax Return Preparation Program (Reliability of Information: 162 volunteer sites impacted)
2016-1C-041	Fiscal Year 2015 Floor Checks
2016-30-046	Revisions to Trust Fund Recovery Penalty Procedures Are Warranted
2016-10-038	Access to Government Facilities and Computers Is Not Always Removed When Employees Separate (Reliability of Information: 2,378 employee records impacted; Taxpayer Privacy and Security: 31 employee identification cards impacted)
2016-30-043	Revenue Officer Levies of Social Security Benefits Indicate That Further Modification to Procedures Is Warranted (Taxpayer Rights and Entitlements: \$308,128 impacting 84 taxpayer accounts)



<b>July 2016<sup>202</sup></b>	
2016-30-047	Fiscal Year 2016 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures (Taxpayer Rights and Entitlements: seven taxpayer accounts impacted; Taxpayer Burden: 22,866 taxpayer accounts impacted)
2016-10-051	Significant Progress Has Been Made in Implementing an Enterprise Risk Management Program
2016-10-048	The Internal Revenue Service Has a Process to Respond to Workplace Injuries, but Some Improvements Could Be Made (Protection of Resources: 369 IRS facilities and 39,616 IRS employees impacted)
2016-10-055	Review of the Internal Revenue Service's Purchase Card Violations Report
2016-10-039	Telework Qualification Requirements Are Generally Being Met, but Program Improvements Are Needed (Protection of Resources: 9,137 IRS employees impacted)
2016-10-049	Significant Improvements Are Needed in the Contractor Tax Check Process
2016-30-052	Fiscal Year 2016 Statutory Review of Compliance With Legal Guidelines When Issuing Levies (Taxpayer Rights and Entitlements: 5,839 taxpayer accounts impacted)
2016-20-058	The Integrated Production Model Increases Data Access Efficiency; However, Access Controls and Data Validation Could Be Improved
<b>August 2016</b>	
2016-20-035	Improvements Are Needed for Information Technology Contract Administration Controls to Mitigate Risks
2016-10-056	Improvements in Controls Are Needed for Laptop Computers Recovered When Employees Separate (Reliability of Information: 884 IRS employees' clearance module and information technology inventory records impacted)
2016-40-065	Processes Are Not Sufficient to Assist Victims of Employment-Related Identity Theft (Taxpayer Rights and Entitlements: 397 taxpayer accounts impacted; Reliability of Information: 227 taxpayer accounts impacted)
2016-1C-053	Report of the Contractor's Compliance With Requirements Applicable to Its Major Program and on Internal Control Over Compliance in Accordance With Office of Management and Budget Circular A-133 for Fiscal Year Ended September 30, 2015 (Questioned Costs: \$850)
2016-30-067	Fiscal Year 2016 Statutory Review of Restrictions on Directly Contacting Taxpayers
2016-30-060	Fiscal Year 2016 Statutory Review of Disclosure of Collection Activities on Joint Returns
2016-10-057	Improved Controls Are Needed to Account for the Issuance and Return of Contractor Employee Laptop Computers (Reliability of Information: 1,078 contractor employee records)
2016-40-076	Contact Analytics Has Been Used to Improve Taxpayer Service, but Not All Front-Line Employees Are Aware of the Process to Submit Customer Service Issues
2016-10-063	Status of the Implementation of the Federal Financial Management Improvement Act
2016-10-054	Actions Can Be Taken to Better Address Potential Noncompliance for Roth Individual Retirement Arrangement Conversions (Revenue Protection: \$54,464,605; Taxpayer Burden: 3,044 taxpayer accounts impacted)
2016-30-059	The Whistleblower Program Helps Identify Tax Noncompliance; However, Improvements Are Needed to Ensure That Claims Are Processed Appropriately and Expeditiously
2016-10-064	The Office of Appeals Has Improved Compliance Within the Collection Due Process Program
2016-23-066	The Affordable Care Act Case Management System Release 1.0

<sup>202</sup> A Sensitive But Unclassified report was issued in July 2016 that is not included in the list of Audit Products.



2016-30-081	Fiscal Year 2016 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute
2016-40-069	Actions Are Needed to Better Identify and Address Individuals Who File Tax Returns Using Frivolous Arguments (Revenue Protection: \$136,137,170 impacting 1,938 taxpayer accounts; Increased Revenue: \$42,625,000 impacting 1705 taxpayer accounts)
2016-20-077	Foreign Account Tax Compliance Act Program Withholding and Refund Release 2.0 Project Development and Testing
2016-30-074	Fiscal Year 2016 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Taxpayer Rights and Entitlements: 13 taxpayer accounts impacted)
<b>September 2016</b>	
2016-30-072	Fiscal Year 2016 Statutory Review of Compliance With the Freedom of Information Act (Taxpayer Rights and Entitlements: 317 Freedom of Information Act requests impacted; Taxpayer Privacy and Security: 2 Freedom of Information Act requests impacted)
2016-30-070	Examination Collectability Procedures Need to Be Clarified and Applied Consistently (Increased Revenue: \$75,558,865)
2016-20-082	Improvements Are Needed to Strengthen Electronic Authentication Process Controls
2016-30-073	Trends in Compliance Activities Through Fiscal Year 2015
2016-30-089	The Large Business and International Division's Strategic Shift to Issue-Focused Examinations Would Benefit From Reliable Information on Compliance Results
2016-30-087	Fiscal Year 2016 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations
2016-10-068	Programming Changes Would Allow More Accurate Tracking of Fair Tax Collection Practices Violations (Reliability of Information: 13 Fair Tax Collection Practice violation cases impacted)
2016-40-078	Due to the Lack of Enforcement, Taxpayers Are Avoiding Billions of Dollars in Backup Withholding (Revenue Protection: \$8,631,833,283; Reliability of Information: 2,345,160 information returns impacted)
2016-20-075	Information Technology: SharePoint Controls Need Improvement to Mitigate Risks and to Ensure That Possible Duplicate Costs Are Avoided
2016-30-088	Fiscal Year 2016 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results
2016-33-071	Affordable Care Act: With Minor Exceptions, Controls and Procedures for Collection of the Shared Responsibility Payment and Excess Advance Premium Tax Credit Were Effectively Established
2016-20-062	Filing Season 2016: Implementation of New Data Elements
2016-30-083	As the Use of Virtual Currencies in Taxable Transactions Becomes More Common, Additional Actions Are Needed to Ensure Taxpayer Compliance
2016-30-085	Improvements to the Nonfiler Program Could Help the Internal Revenue Service More Effectively Address Additional Nonfilers Owing Billions of Dollars in Taxes (Increased Revenue: \$2,700,000,000 impacting 127,000 taxpayer accounts)
2016-30-090	Barriers Exist to Properly Evaluating Transfer Pricing Issues
2016-20-092	Treasury Inspector General for Tax Administration – Federal Information Security Modernization Act Report for Fiscal Year 2016
2016-40-091	Actions Can Be Taken to Better Identify Potentially Erroneous Domestic Production Activities Deductions (Increased Revenue: \$5,402,635 impacting 2,829 taxpayer accounts; Revenue Protection: \$166,835 impacting 177 taxpayer accounts)
2016-20-093	Updating Computer Room and Tape Library Physical Access Controls at the Computing Centers Will Significantly Improve Security
2016-20-094	Annual Assessment of the Internal Revenue Service Information Technology Program
2016-20-080	Review of the Enterprise E-Mail System Acquisition (Inefficient Use of Resources: \$12,091,320)



## Appendix III

### TIGTA's Statutory Reporting Requirements

TIGTA issued 14 audit reports required by statute dealing with the adequacy and security of IRS technology during this reporting period. In FY 2016, TIGTA will complete its 15<sup>th</sup> round of statutory reviews that are required annually by RRA 98. It will also complete its annual review of the Federal Financial Management Improvement Act (FFMIA) of 1996, the Office of National Drug Control Policy (ONDCP) Detailed Accounting Submission and Assertions, the Government Charge Card Abuse Prevention Act of 2012, Executive Order 13520 – Reducing Improper Payments and Eliminating Waste in Federal Programs, and the Improper Payments Elimination and Recovery Act of 2010 (IPERA). The following table reflects the FY 2016 statutory reviews.

Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Enforcement Statistics</b>  Internal Revenue Code (I.R.C.) Section (§) 7803(d)(1)(A)(i)	Requires TIGTA to evaluate the IRS's compliance with restrictions under RRA 98 § 1204 on the use of enforcement statistics to evaluate IRS employees.	<b>Ref. No. 2016-30-088, September 2016</b> TIGTA identified instances of noncompliance with requirements of each subsection of RRA 98 § 1204. In addition, TIGTA found one IRS policy violation where the second-line manager did not identify that the first-line manager's self-assessment contained record of tax enforcement results information, which should have been returned for correction. TIGTA also noted that eight managers were missing from the FY 2015 § 1204 employee and manager listing, and a total of 80 employees and managers did not timely complete the mandatory § 1204 training.
<b>Restrictions on Directly Contacting Taxpayers</b>  I.R.C. § 7803(d)(1)(A)(ii)	Requires TIGTA to evaluate the IRS's compliance with restrictions under I.R.C. § 7521 on directly contacting taxpayers who have indicated they prefer their representatives be contacted.	<b>Ref. No. 2016-30-067, August 2016</b> For this year's review, TIGTA analyzed how well revenue agents in the Small Business/Self-Employed Division's Field Examination function are complying with the direct contact provisions of the I.R.C. during interactions with taxpayers or their representatives. TIGTA obtained and analyzed an extract of electronic audit work papers from the Correspondence Examination Automation Support system for field examinations closed in FY 2015 and did not identify any revenue agent violations.





Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Filing of a Notice of Lien</b> I.R.C. § 7803(d)(1)(A)(iii)	Requires TIGTA to evaluate the IRS's compliance with required procedures under I.R.C. § 6320 (a) upon the filing of a notice of lien.	<b>Ref. No. 2016-30-047, July 2016</b> TIGTA reviewed a statistically valid sample of 133 <i>Notices of Federal Tax Lien</i> for the 12-month period beginning July 1, 2014, and ending June 30, 2015, and determined that the IRS timely and correctly mailed the taxpayers the notices of lien filing and appeal rights, as required by I.R.C. § 6320(a). However, for six of the 37 sample cases for which the taxpayers had an authorized representative, the IRS did not notify the taxpayers' representative of the lien filing.
<b>Extensions of the Statute of Limitations for Assessment of Tax</b> I.R.C. § 7803(d)(1)(C) I.R.C. § 6501(c)(4)(B)	Requires TIGTA to include information regarding extensions of the statute of limitations for assessment of tax under I.R.C. § 6501 and the provision of notice to taxpayers regarding the right to refuse or limit the extension to particular issues or a particular period of time.	<b>Ref. No. 2016-30-081 August 2016</b> The IRS is required by law to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. TIGTA's review of a statistical sample of 60 closed taxpayer audit files with assessment statute extensions found that the IRS was compliant with I.R.C. § 6501(c)(4)(B).
<b>Levies</b> I.R.C. § 7803(d)(1)(A)(iv)	Requires TIGTA to evaluate the IRS's compliance with required procedures under I.R.C. § 6330 regarding levies.	<b>Ref. No. 2016-30-052, July 2016</b> The IRS is protecting taxpayers' rights when issuing systemic and manual levies in cases for which additional assessments were not included in the levy. However, a review of statistical samples of taxpayers' cases that were worked in the Automated Collection System and that had additional tax assessed included in the systemic (30 taxpayers) and manual (30 taxpayers) levies determined that there were five taxpayers with systemic and six taxpayers with manual levies who did not receive a new notice of intent to levy after an additional assessment was made on a tax period listed on the levy.



Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Collection Due Process</b>  I.R.C. § 7803(d)(1)(A)(iii) and (iv)	Requires TIGTA to evaluate the IRS's compliance with required procedures under I.R.C. §§ 6320 and 6330 regarding taxpayers' rights to appeal lien or levy actions.	<b>Ref. No. 2016-10-064, August 2016</b> TIGTA found that the Office of Appeals made improvements in the overall compliance in the Collection Due Process Program. However, TIGTA also identified similar deficiencies in the IRS's processing of Collection Due Process cases as previously reported. Specifically, the Office of Appeals did not always classify taxpayer requests properly and, as a result, some taxpayers received the wrong type of hearing. In addition, TIGTA continued to identify errors related to the determination of the Collection Statute Expiration Date on taxpayer accounts.
<b>Seizures</b>  I.R.C. § 7803(d)(1)(A)(iv)	Requires TIGTA to evaluate the IRS's compliance with required procedures under I.R.C. §§ 6330 through 6344 when conducting seizures.	<b>Ref. No. 2016-30-074, August 2016</b> TIGTA reviewed a random sample of 50 of the 428 seizures conducted from July 1, 2014, through June 30, 2015, to determine whether the IRS complied with legal and internal guidelines related to each seizure. TIGTA found that the IRS followed most of the procedures in the seizures reviewed. However, TIGTA identified 18 instances in which the IRS did not comply with a particular I.R.C. section or the related Internal Revenue Manual requirement. For example, the sale of seized property was not always properly advertised, and the amount of the liability for which seizures were made was not always correct on the notice of seizure provided to the taxpayers.
<b>Taxpayer Designations – Illegal Tax Protester Designation and Similar Designations</b>  I.R.C. § 7803(d)(1)(A)(v)	An evaluation of the IRS's compliance with restrictions under RRA 98 § 3707 on designation of taxpayers.	<b>Ref. No. 2016-30-087, September 2016</b> The IRS has not reintroduced past Illegal Tax Protestor codes or similar designations on taxpayer accounts. However, TIGTA found that out of approximately 16.6 million records, there were seven instances in which employees referred to taxpayers as "Tax Protester/Protestor" or "Defier" in case narratives in the Correspondence Examination Automation Support system.



Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Disclosure of Collection Activities With Respect to Joint Returns</b>  I.R.C. § 7803(d)(1)(B) (TIGTA requirement)  I.R.C. § 6103(e)(8) (IRS requirement)	Requires TIGTA to review and certify whether the IRS is complying with I.R.C. § 6103(e) (8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return.	<b>Ref. No. 2016-30-060, August 2016</b> TIGTA could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written requests from joint filers because IRS management information systems do not record or monitor joint filer requests, and there is no legal requirement for the IRS to do so. While TIGTA does not recommend the creation of a separate tracking system, it determined that improvements can be made when receiving disclosures of collection information requests pursuant to either I.R.C. § 6103(e)(8) or § 6103(e)(7). TIGTA also found that IRS employees may not be providing information guaranteed under I.R.C. §§ 6103(e)(7) or (e)(8) because not all IRS Automated Collection System employees have been trained that taxpayers are entitled to this information.
<b>Taxpayer Complaints</b>  I.R.C. § 7803(d)(2)(A)	Requires TIGTA to include in each of its <i>Semiannual Reports to Congress</i> the number of taxpayer complaints received and the number of employee misconduct and taxpayer abuse allegations received by IRS or TIGTA from taxpayers, IRS employees, and other sources.	Statistical results on the number of taxpayer complaints received are shown on page 70.



Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<p><b>Administrative or Civil Actions With Respect to the Tax Collection Practices Act of 1996</b></p> <p>I.R.C. § 7803(d)(1)(G)</p> <p>I.R.C. § 6304</p> <p>RRA 98 § 3466</p>	<p>Requires TIGTA to include information regarding any administrative or civil actions with respect to violations of the fair debt collection provision of I.R.C. § 6304, including a summary of such actions and any resulting judgments or awards granted.</p>	<p><b>Ref. No. 2016-10-068, September 2016</b></p> <p>The IRS recorded two Fair Tax Collection Practices (FTCP) violations in Fiscal Year 2015 that resulted in administrative actions for revenue officers who contacted taxpayers directly without the required consent of the taxpayers' power of attorney. TIGTA also determined that 12 cases were not tracked by the IRS as potential FTCP violations. These 12 cases consisted of one investigation and 11 complaints. TIGTA identified one investigation that was not correctly coded with the FTCP issue code on the Automated Labor and Employee Relations Tracking System (ALERTS), which the IRS uses to track disciplinary action. TIGTA identified 11 complaints that included potential FTCP issues that were either not entered into the ALERTS or were entered without the associated FTCP issue code</p>
<p><b>Denial of Requests for Information</b></p> <p>I.R.C. § 7803(d)(1)(F)</p> <p>I.R.C. § 7803(d)(3)(A)</p>	<p>Requires TIGTA to include information regarding improper denial of requests for information from the IRS, based on a statistically valid sample of the total number of determinations made by the IRS to deny written requests to disclose information to taxpayers on the basis of I.R.C. § 6103 or 5 U.S.C. § 552(b)(7).</p>	<p><b>Ref. No. 2016-30-072, September 2016</b></p> <p>TIGTA reviewed a statistically valid sample of 60 information requests from a population of 2,720 Freedom of Information Act requests and identified seven in which taxpayer rights may have been violated. TIGTA also reviewed a statistically valid sample of 55 I.R.C. § 6103 information requests and found that all were adequately addressed by the IRS.</p>



Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Adequacy and Security of the Technology of the IRS</b>  I.R.C. § 7803(d)(1)(D)	Requires TIGTA to evaluate the IRS's adequacy and security of its technology.	<b>Information Technology Reviews:</b> <i>Ref. No. 2016-20-019, February 2016</i> <i>Ref. No. 2016-20-058, July 2016</i> <i>Ref. No. 2016-20-035, August 2016</i> <i>Ref. No. 2016-23-066, August 2016</i> <i>Ref. No. 2016-20-077, August 2016</i> <i>Ref. No. 2016-20-062, September 2016</i> <i>Ref. No. 2016-20-080, September 2016</i> <i>Ref. No. 2016-20-094, September 2016</i>  <b>Security Reviews:</b> <i>Ref. No. 2016-20-002, October 2015</i> <i>Ref. No. 2016-23-040, May 2016</i> <i>Ref. No. 2016-20-075, September 2016</i> <i>Ref. No. 2016-20-082, September 2016</i> <i>Ref. No. 2016-20-092, September 2016</i> <i>Ref. No. 2016-20-093, September 2016</i>
<b>Federal Financial Management Improvement Act of 1996 (FFMIA)</b>  31 U.S.C. § 3512	Requires TIGTA to evaluate the financial management systems to ensure compliance with Federal requirements or the establishment of a remediation plan with resources, remedies, and intermediate target dates to bring the IRS into substantial compliance.	<b>Ref. No. 2016-10-063, August 2016</b> During Fiscal Year 2015, the IRS made progress on addressing certain aspects of its internal control weaknesses that affect its financial reporting. However, the IRS did not properly document all of the Government Accountability Office recommendations within its FY 2015 remediation plan. In addition, as previously recommended, TIGTA continues to believe that including implementation steps associated with the Customer Account Data Engine 2 Transition State 2 would improve the remediation plan.





Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<p><b>Office of National Drug Control Policy (ONDCP) Detailed Accounting Submission and Assertions</b></p> <p>National Drug Enforcement Policy 21 U.S.C. § 1704(d) and the Office of National Drug Control Policy Circular entitled <i>Drug Control Accounting</i>, dated May 1, 2007.</p>	<p>Requires TIGTA to authenticate the IRS's ONDCP detailed accounting submission and assertions.</p>	<p><b>Ref. No. 2016-10-014, January 2016</b> The TIGTA review indicated that the IRS asserted that the methodology used to establish its performance targets for the current year is reasonable given its past performance and is consistent with its documented policy on developing performance targets. However, TIGTA found that although the IRS did marginally increase its targets for FY 2016 in all three target areas, the new goals are not consistent with its documented methodology that requires the goals to be based on an average of actual performance. Otherwise, based on TIGTA's review, nothing came to our attention that caused it to believe that the assertions in the Detailed Accounting Submission and Performance Summary Report were not fairly presented in all material respects in accordance with the ONDCP's established criteria.</p>
<p><b>Government Charge Card Abuse Prevention Act of 2012</b></p> <p>Pub. L. No. 112-194 (October 2012).</p>	<p>Requires TIGTA to report on IRS progress in implementing purchase and travel card audit recommendations.</p>	<p><b>Ref. No. 2016-10-013, January 2016</b> The IRS properly identified and reported 13 instances of confirmed purchase card misuse and two instances of purchase card misuse pending final agency action. TIGTA's independent review found one additional instance of potential purchase card fraud and four additional instances of purchase card misuse pending investigation or final agency action.</p> <p><b>Ref. No. 2016-10-055, July 2016</b> The IRS properly identified and reported 30 instances of confirmed purchase card misuse and four instances of purchase card misuse pending final agency action. TIGTA's independent review did not identify additional instances of confirmed or pending purchase card misuse. TIGTA also reviewed the IRS's current credit card guidance and determined that policies and controls have been established that are designed to mitigate the risk of fraud and inappropriate Government travel and purchase charge card practices, including controls that address centrally billed travel card accounts.</p>



Reference to Statutory Coverage	Explanation of the Provision	Comments/TIGTA Audit Status
<b>Improper Payments Elimination and Recovery Act of 2010 (IPERA)</b>  31 U.S.C. § 3321	Requires TIGTA to assess the IRS's compliance with improper payment requirements.	<b>Ref. No. 2016-40-036, April 2016</b> The IRS provided all required improper payment information to Treasury for inclusion in the <i>Department of the Treasury Agency Financial Report Fiscal Year 2015</i> with the exception of reporting an overall Earned Income Tax Credit (EITC) improper payment rate below 10 percent. The IRS is unable to address the majority of potentially erroneous EITC claims without expanded authorities to systematically correct the erroneous claims it identifies. In addition, although the IRS completed risk assessments of the 22 program fund groups identified by the Treasury, the risk assessment process still does not provide a valid assessment of refundable credit improper payments.



## Appendix IV

### Section 1203 Standards

In general, the Commissioner of Internal Revenue shall terminate any IRS employee if there is a final administrative or judicial determination that, in the performance of official duties, such employee committed any misconduct violations outlined below. Such termination shall be a removal for cause on charges of misconduct.

Misconduct violations include:

- Willfully failing to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;
- Providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;
- Violating, with respect to a taxpayer, taxpayer representative, or other employee of the IRS, any right under the Constitution of the United States, or any civil right established under Title VI or VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Age Discrimination in Employment Act of 1967; Age Discrimination Act of 1975; Section 501 or 504 of the Rehabilitation Act of 1973; or Title I of the Americans with Disabilities Act of 1990;
- Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;
- Committing assault or battery on a taxpayer, taxpayer representative, or other employee of the IRS, but only if there is a criminal conviction or a final judgment by a court in a civil case with respect to the assault or battery;
- Violating the Internal Revenue Code of 1986, as amended (the Code), the Department of the Treasury regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating against or harassing a taxpayer, taxpayer representative, or other employee of the IRS;
- Willfully misusing provisions of § 6103 of the Code for the purpose of concealing information from a congressional inquiry;
- Willfully failing to file any return of tax required under the Code on or before the date prescribed therefore (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;
- Willfully understating Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and
- Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Commissioner of Internal Revenue may mitigate the penalty of removal for the misconduct violations outlined above. The exercise of this authority shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his or her sole discretion, may establish a procedure that will be used



to decide whether an individual should be referred to the Commissioner for determination. Any mitigation determination by the Commissioner in these matters may not be appealed in any administrative or judicial proceeding.



## Appendix V

# Implementing Section 989C of the Dodd-Frank Wall Street Reform and Consumer Protection Act Inspector General Peer Review Activity April 1, 2016 Through September 30, 2016

### **No Peer Review Conducted of TIGTA's Office of Audit**

No peer reviews were conducted of the TIGTA Office of Audit during this reporting period.

### **No Peer Review Conducted by TIGTA's Office of Audit**

No peer reviews were conducted by the TIGTA Office of Audit during this reporting period.

### **No Peer Reviews Conducted of TIGTA's Office of Investigations:**

No peer reviews were conducted of the TIGTA Office of Investigations during this reporting period.

### **Peer Reviews Conducted by TIGTA's Office of Investigations:**

The TIGTA Office of Investigations conducted a peer review of the investigative operations of the U.S. Department of Homeland Security, Office of Inspector General, during this reporting period. No material weaknesses or deficiencies were identified.

### **No Peer Review Conducted of TIGTA's Office of Inspections and Evaluations**

No peer reviews were conducted of the TIGTA Office of Inspections and Evaluations during this reporting period.

### **No Peer Review Conducted by TIGTA's Office of Inspections and Evaluations**

No peer reviews were conducted by the TIGTA Office of Inspections and Evaluations during this reporting period.






## Appendix VI

### Data Tables Provided by the Internal Revenue Service

The memorandum copied below is the IRS's transmittal to TIGTA. The tables that follow the memorandum contain information that the IRS provided to TIGTA and consist of IRS employee misconduct reports from the IRS Automated Labor and Employee Relations Tracking System (ALERTS) for the period April 1, 2016 through September 30, 2016. Also, data concerning substantiated RRA 98 §1203 allegations for the same period are included. IRS management conducted inquiries into the cases reflected in these tables.

<p> HUMAN CAPITAL OFFICE</p> <p>DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, D.C. 20224</p> <p>October 4, 2016</p> <p>MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION</p> <p>FROM: Lia Colbert <b>Amalia C. Colbert</b> Director, Workforce Relations Division</p> <p>SUBJECT: Input for the Treasury Inspector General for Tax Administration (TIGTA) Semiannual Report to Congress</p> <p>In response to your memorandum on July 19, 2016, I am providing the following information to meet your reporting requirements as defined in 26 U.S.C. §7803(d)(1)(E) and 26 U.S.C. §7803(d)(2)(A)(ii) for April 1, 2016, through September 30, 2016.</p> <ul style="list-style-type: none"><li>• Report of Employee Misconduct by Disposition Groups</li><li>• Report of Employee Misconduct – National Summary</li><li>• Summary of Substantiated Section 1203 Inquiries Recorded in Automated Labor and Employee Relations Tracking System (ALERTS)</li></ul> <p>The attached tables contain information about:</p> <ul style="list-style-type: none"><li>• Alleged misconduct reported to IRS managers</li><li>• Disposition of the allegations resolved during the period</li><li>• Status of the inventory as of September 30, 2016</li></ul> <p>The tables contain information about alleged misconduct that both TIGTA and IRS management investigated. The IRS received these allegations from taxpayers, IRS employees, and other sources, and recorded them in ALERTS.</p> <p>The Summary of Substantiated Section 1203 Allegations contains information on the disposition of substantiated Section 1203 allegations. During this period, IRS managers substantiated 79 Section 1203 allegations and removed four (4) employees as a result. Five (5) employees retired or resigned before a final administrative action by management. In one (1) of the removals, IRS management considered information in a TIGTA investigation. The Commissioner mitigated proposed removals in 11 cases. The remaining 59 substantiated allegations are still in the adjudication process.</p> <p>If you have any questions, please contact Sheila Barbee, Acting Associate Director, LR/ER Field Operations at (202) 317-3307.</p>	<p>Attachments (3)</p> <p>cc: John A. Koskinen, Commissioner of Internal Revenue John M. Dalrymple, Deputy Commissioner for Services and Enforcement Jeffrey Tribiano, Deputy Commissioner for Operations Support Nina Olson, National Taxpayer Advocate Elita Christiansen, Executive Director, Equity, Diversity and Inclusion Terry Lemons, Chief, Communications &amp; Liaison Mark Kaizen, Associate Chief Counsel (GLS) Daniel T. Riordan, Chief Human Capital Officer</p>
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The Following Tables Are Provided by the IRS.



# Reports of Employee Misconduct Summary by Disposition Groups

Period Covering April 1, 2016 through September 30, 2016

Disposition	TIGTA Report of Investigation	Administrative Case	Employee Tax Compliance Case	Employee Character Investigation	Totals
REMOVAL (PROBATION PERIOD COMPLETE)	19	44	6	0	69
REMOVAL AT OPM DIRECTION	0	0	0	1	1
PROBATION/SEPARATION	1	109	0	0	110
SEPARATION OF TEMP	1	16	0	0	17
RESIGN., RET., ETC. (SF50 NOTED)	7	25	7	0	39
RESIGN. RET., ETC. (SF50 NOT NOTED)	30	94	21	0	145
SUSP., 14 DAYS OR LESS	49	106	69	0	224
SUSP., MORE THAN 14 DAYS	31	32	23	0	86
INDEFINITE SUSPENSION	5	9	0	0	14
REPRIMAND	50	127	99	2	278
ADMONISHMENT	32	129	264	1	426
WRITTEN COUNSELING	52	137	213	3	405
ORAL COUNSELING	0	34	17	0	51
A D: IN LIEU OF REPRIMAND	4	8	5	0	17
A D: IN LIEU OF SUSPENSION	8	14	17	0	39
CLEARANCE LETTER	69	89	2	0	160
CWA CAUTIONARY LTR	79	154	86	97	416
CWA LETTER	48	75	32	1	156
TERMINATION FOR ABANDONMENT OF POSITION	0	48	0	0	48
CASE SUSPENDED PENDING EMPLOYEE RTD	0	0	--	0	0
CLOSED – SUPPLEMENTAL REQUESTED	0	0	0	0	0
FORWARDED TO TIGTA	0	2	--	0	2
<b>Total</b>	<b>485</b>	<b>1252</b>	<b>861</b>	<b>105</b>	<b>2703</b>



**Source: Automated Labor and Employee Relations Tracking System (ALERTS).**

Extract Date: October 3, 2016

Notes: Columns containing numbers of two or less and protected by I.R.C. § 6103 are annotated with a zero.

A D is an abbreviation for "Alternative Discipline."

This report is being produced in accordance with 26 U.S.C. § 7803(d)(2) and § 4(a)2 of Treasury Delegation Order 115-01, January 14, 1999.



# Reports of Employee Misconduct National Summary

Period Covering April 1, 2016 through September 30, 2016

Inventory Case Type	Open Inventory	Conduct Cases Received	Cases Closed			Ending Inventory
			Conduct Issues	Cases Merged with Other Cases	Non-Conduct Issues	
ADMINISTRATIVE CASE	452	1876	1560	41	65	662
EMPLOYEE CHARACTER INVESTIGATION	21	124	114	1	0	30
EMPLOYEE TAX COMPLIANCE CASE	842	1012	919	29	0	906
TIGTA REPORT OF INVESTIGATION	588	595	574	15	0	594
<b>Total</b>	<b>1903</b>	<b>3607</b>	<b>3167</b>	<b>86</b>	<b>65</b>	<b>2192</b>

**Source: Automated Labor and Employee Relations Tracking System (ALERTS).**

Extract Date: October 3, 2016

TIGTA Investigations (ROI) - Any matter involving an employee in which TIGTA conducted an investigation into alleged misconduct and referred a Report of Investigation (ROI) to IRS for appropriate action.

Administrative Case - Any matter involving an employee in which management conducted an inquiry into alleged misconduct.

Employee Tax Compliance Case - Any conduct matter that is identified by the Employee Tax Compliance program which becomes a matter of official interest.

Background Investigations - Any matter involving an NBIC investigation into an employee's background that is referred to management for appropriate action.



## Summary of Substantiated I.R.C. Section 1203 Allegations Recorded in ALERTS

Period Covering April 1, 2016 through September 30, 2016

§ 1203 Violation	*Removals	*Resigned/Retired	*Probation Separation	*Removed On Other Grounds	*Penalty Mitigated	In Personnel Process	Total
§1203(b)(10): Threat of Audit/ Personal	0	0	0	0	0	2	2
§1203(b)(4): Concealed Work Error	0	0	0	0	0	1	1
§1203(b)(6): IRC/IRM/REG Violation-Retaliation	1	0	0	0	0	0	1
§1203(b)(8): Willful Untimely Return	---	4	0	0	---	28	32
§1203(b)(9): Willful Understated Tax	---	---	0	0	9	28	37
<b>Total</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>59</b>	<b>73</b>

Source: Automated Labor and Employee Relations Tracking System (ALERTS).

Extract Date: October 3, 2016

**Note:** Columns containing numbers of three or less and protected by I.R.C. Section 6103 are annotated with a dash and the total for such column does not reflect the Section 6103 material withheld.

\*These cases are included in the totals of Table above entitled "Reports of Employee Misconduct Summary by Disposition Groups." The cases reported as "Removals" and "Penalty Mitigated" do not reflect the results of any third-party appeal.

This report is being produced in accordance with 26 U.S.C. § 7803(d)(2) and § 4(a)2 of Treasury Delegation Order 115-01, January 14, 1999.





## Glossary of Acronyms

ACM	Affordable Care Act Case Management
ACV	Affordable Care Act Compliance Validation
APTC	Advance Premium Tax Credit
AUR	Automated Underreporter
CPA	Certified Public Accountant
EIC	Earned Income Credit
ESS	Enterprise Storage Services
FBAR	Foreign Bank and Financial Accounts
FRP	Frivolous Return Program
FY	Fiscal Year
HHS	Department of Health and Human Services
I&E	Office of Inspections and Evaluations
I.R.C.	Internal Revenue Code
IP PIN	Identity Protection Personal Identification Number
IRA	Individual Retirement Arrangement
IRM	Internal Revenue Manual
FY	Fiscal Year
HHS	Department of Health and Human Services
IRS	Internal Revenue Service



IRS-CI	IRS Criminal Investigation
OEP	Office of Employee Protection
OI	Office of Investigations
OIC	Offer in Compromise
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OVDP	Offshore Voluntary Disclosure Program
PII	Personally Identifiable Information
PTC	Premium Tax Credit
RRA 98	Internal Revenue Service Restructuring and Reform Act of 1998
RTR	Remittance Transaction Research
SB/SE	Small Business/Self-Employed Division (IRS)
SRP	Shared Responsibility Payment
SSN	Social Security Number
TAC	Taxpayer Assistance Center
TAS	Taxpayer Advocate Service
TIGTA	The Treasury Inspector General for Tax Administration
TY	Tax Year

**ACRONYMS USED EXCLUSIVELY IN APPENDICES**

ALERTS	Automated Labor and Employee Relations Tracking System
DDIA	Direct Debit Installment Agreement
EIN	Employer Identification Number
EITC	Earned Income Tax Credit
FTC	Foreign Tax Credit
FTCP	Fair Tax Collection Practices
IPERA	Improper Payments Elimination and Recovery Act of 2010
ITIN	Individual Taxpayer Identification Numbers
ONDCP	Office of National Drug Control Policy
SSA	Social Security Administration



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