

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2025 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers

September 16, 2025

Report Number: 2025-300-047

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document

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HIGHLIGHTS: Fiscal Year 2025 Statutory Review of Restrictions on Directly Contacting Represented Taxpayers

Final Audit Report issued on September 16, 2025

Report Number 2025-300-047

Why TIGTA Did This Audit

We are required to annually report on the IRS's compliance with statutory provisions that restrict IRS employees from directly contacting taxpayers who have representation.

We analyzed the extent to which Small Business/Self-Employed Division Field Examination employees complied with the direct contact provisions of Internal Revenue Code §§ 7521(b)(2) and (c) and the fair tax collection practices of Internal Revenue Code § 6304(a)(2) during interactions with taxpayers or their representatives. The Taxpayer Bill of Rights also guarantees taxpayers the right of representation before the IRS.

Impact on Tax Administration

If taxpayers' rights to representation are not adhered to by the IRS, they might not receive the benefits under the law and procedures to which they are entitled, and they may experience adverse outcomes. If taxpayer representatives are bypassed or are not made aware of what is happening with their clients' tax matters, *e.g.*, receiving copies of notices as required, then representatives may be unable to offer the advice and assistance that taxpayers need.

What TIGTA Found

Our review found that IRS employees did not consistently follow legal and procedural requirements related to direct taxpayer contact and representation. We identified 38 potential violations within 21 of the 75 field examination cases we sampled for review. In 8 of these 21 cases, field examiners committed multiple potential violations. We estimate there were more than 13,600 cases from July 2023 through June 2024 where the examiner did not consistently follow procedures to protect the taxpayer's right to representation.

The potential violations include examiners who:

- Improperly bypassed authorized representatives.
- Did not always follow pre-contact procedures.
- Did not follow revocation and withdrawal procedures.
- Did not provide notices to taxpayers' representatives due to inconsistent guidance or procedural lapses.

Some violations were caused by an inconsistency between the Internal Revenue Manual (IRM) guidance to employees and other procedural rules. The IRM states that taxpayers must opt for representatives to receive copies of notices, while the procedural rules state that copies will be provided unless taxpayers specifically opt out. This inconsistency impacts taxpayers that use Form 2848, *Power of Attorney and Declaration of Representative* to designate a representative.

What TIGTA Recommended

We made seven recommendations, including that the SB/SE Division, working with other IRS functions, revise Form 2848 along with the instructions, to align the form with applicable procedural rules that require providing copies of IRS correspondence to taxpayer representatives unless taxpayers specifically opt out.

The IRS agreed with four of the seven recommendations, including to remind employees that a Form 8821 only allows a designee to receive taxpayer information and does not authorize them to act of the taxpayer's behalf and coordinating revisions to Form 2848 and its instructions. This IRS disagreed with the remaining three recommendations stating that they do not believe retrospective discussions will reinforce compliance, revisions to the IRM will depend on changes to the Form 2848, and that its quality review procedures assist in the review of cases. However, we believe discussing past issues with employees and clear and consistent guidance is needed to protect taxpayers' rights.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

September 16, 2025

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Diana M. Tengesdal
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2025 Statutory Review of Restrictions on
Directly Contacting Represented Taxpayers (Audit No.: 2025300008)

This report presents the results of our review of whether the Internal Revenue Service complied with legal guidelines addressing the direct contact of taxpayers and their representatives set forth in Internal Revenue Code (I.R.C.) §§ 7521(b)(2) and (c) and the fair tax collection practices set forth in I.R.C. § 6304(a)(2). This review is part of our Fiscal Year 2025 Annual Audit Plan and addresses the major management and performance challenge of *Tax Compliance and Enforcement*.

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

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Background

Taxpayers have a right to representation in matters before the Internal Revenue Service (IRS).¹ The Internal Revenue Code (I.R.C.) provides taxpayers the right to representation during interviews (hereafter referred to as the direct contact provisions).² In addition, the law protects a taxpayer's right to representation by prohibiting the IRS from contacting a taxpayer in relation to collection matters if the IRS knows the taxpayer is represented.³

Determining whether the IRS is complying with the right to representation and direct contact provisions is difficult. The IRS does not have a system to identify cases in which taxpayers have either requested consultation with a representative or in which an IRS employee bypassed a representative and directly contacted the taxpayer.

To designate power of attorney (POA) authority to a representative, a taxpayer files Form 2848, *Power of Attorney and Declaration of Representative*, with the IRS. A taxpayer can also choose to submit Form 8821, *Tax Information Authorization*, to allow a third-party designee to obtain tax information. However, Form 8821 does not authorize the third party to represent a taxpayer during an audit. Both forms provide taxpayers with the option to request copies of notices and communications to be provided to their representative or designee. Once received and processed, the IRS records the POA or authorization in its Centralized Authorization File (CAF), a records system that stores authorization information from those forms. This system is linked to other IRS applications and is used by many IRS functions to determine when a taxpayer is working with an authorized representative.

Identifying the authorized representative during audit or collection activities is critical for IRS personnel because I.R.C. § 6103 prohibits disclosure of tax return information to third parties unless the taxpayer has authorized the IRS to make the disclosure. In addition, the direct contact provisions of I.R.C. § 7521 enacted in 1988, as part of the Omnibus Taxpayer Bill of Rights, created safeguards to protect the rights of taxpayers as part of a tax examination or collection action.⁴ Specifically, IRS employees are required to:

- Stop the interview (unless required by court order) whenever a taxpayer requests to consult with a representative, any person who is permitted to represent taxpayers before the IRS, such as a Certified Public Accountant, attorney, or Enrolled Agent.
- Obtain their immediate supervisor's approval to contact the taxpayer instead of the representative if the representative unreasonably delays the completion of an examination, collection, or civil investigation.

The IRS Restructuring and Reform Act of 1998 directed the IRS to revise Publication 1, *Your Rights as a Taxpayer*, to better inform taxpayers of these rights.⁵ In addition, this Act added

¹ I.R.C. § 7803(a)(3)(I).

² I.R.C. §§ 7521(b)(2) and (c). See appendix III for a glossary of terms used in this report

³ I.R.C. § 6304(a)(2).

⁴ Pub. L. No. 100-647, 102 Stat. 3730 (1988) (codified as amended in scattered sections of 5 and 26 U.S.C.).

⁵ Pub. L. No. 105-206, 112 Stat. 771.

I.R.C. § 7803(d)(1)(A)(ii), which requires that we annually evaluate the IRS's compliance with the direct contact provisions.

This review focused on potential taxpayer rights and direct contact violations related to the Small Business/Self-Employed (SB/SE) Division's Examination employees. SB/SE Examination employees include revenue agents (RAs) and tax compliance officers (TCOs). RAs independently conduct examinations of individual and business income tax returns, whereas TCOs conduct limited scope examinations of taxpayers. Both RAs and TCOs (collectively referred to as "field examiners") should conduct face-to-face examinations with taxpayers and/or their representatives.

Results of Review

Our review found that IRS employees did not consistently follow legal and procedural requirements related to direct taxpayer contact and representation. We identified 38 potential violations within 21 of the 75 examination cases we sampled for review. In 8 of these 21 cases, field examiners committed multiple potential violations. We estimate there were more than 13,600 cases from July 2023 through June 2024 where the examiner did not consistently follow procedures to protect the taxpayer's right to representation.

The potential violations include examiners who:

- Improperly bypassed authorized representatives.
- [REDACTED]
- Did not always follow pre-contact procedures.
- Did not follow revocation and withdrawal procedures.
- Did not provide notices to taxpayers' representatives due to inconsistent guidance or procedural lapses.

Some Field Examiners Did Not Follow Procedures to Protect Taxpayer Rights to Representation

From July 1, 2023, through June 30, 2024, the IRS closed 48,875 examination cases with a representative or designee and worked by field examiners. We selected a statistically valid stratified random sample of 75 cases to assess the IRS's compliance with the direct contact provisions.⁶ Our review focused on whether employees followed legal and procedural requirements designed to protect taxpayer rights.

⁶ We selected our sample using a 95 percent confidence level, a ± 5 percent precision factor, and a 5 percent estimated error rate. When projecting the results of our statistical sample, we are 95 percent confident that the total number of potential violations is between 8,915 and 19,336.

Examiners improperly bypassed authorized representatives

In general, examiners adhered to procedures that help ensure compliance with the direct contact provisions. However, we found four instances of potential violations of I.R.C. §§ 7521(c) and 7803(a)(3)(I) where examiners bypassed the taxpayer's representative and directly contacted the taxpayer. Our review of these cases found no evidence of managerial approval to bypass an authorized representative or that the examiners notified the representative on file that they were being bypassed. There was also no evidence the representative delayed the process.

The law requires IRS employees to obtain their supervisor's approval to contact the taxpayer instead of their representative if the representative unreasonably delays an examination, investigation, *etc.* Additionally, IRS procedures provide examiners with the criteria for bypassing a taxpayer's representative.

Management agreed that in one of the cases the examiner overlooked that an active representative was on file, resulting in direct contact with the taxpayer. However, IRS management disagreed with several of the potential violations, asserting that direct contact is permissible if there is no intent to bypass the representative, even when formal bypass procedures are not followed. They cited factors such as taxpayer-initiated contact, lack of examiner awareness, or subsequent taxpayer preference to involve the representative. These explanations do not resolve the concerns, as the case files lacked documentation supporting the examiners' actions, including evidence of managerial approval. Regardless of intent, contacting a represented taxpayer without following required procedures constitutes a bypass.

When IRS employees fail to honor valid POAs by communicating directly with taxpayers rather than their authorized representatives, taxpayers are deprived of their statutory right to retain representation. When the IRS bypasses the taxpayer's representative it increases the risk of procedural errors and miscommunication, particularly when taxpayers are unfamiliar with technical tax matters or their procedural rights. In some cases, such actions may also erode taxpayer trust in the integrity and fairness of IRS processes and have legal consequences.

[REDACTED]

[REDACTED]

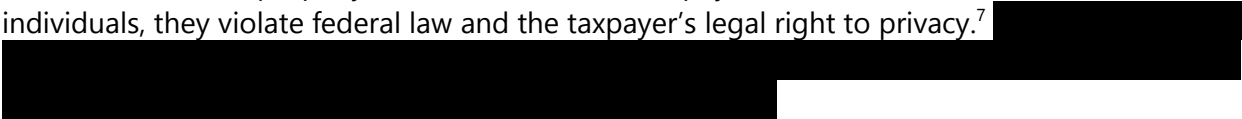
[REDACTED] A Form 8821 permits a designated third party to receive returns and return information but does not permit the third party to represent the taxpayer before the IRS. [REDACTED]

[REDACTED] IRS management acknowledged that the examiner exceeded the consent executed by the taxpayer in one case and in the other, the IRS did not provide a reason.

Taxpayers have the right to confidentiality, and IRS employees are prohibited from disclosing taxpayer information to unauthorized individuals. This right is also addressed in Publication 1, *Your Rights as a Taxpayer*, which states that the information taxpayers provide to the IRS will be released only if the taxpayer or law authorizes the disclosure. The IRS's disclosure policies outline IRS employees' responsibility to protect the confidentiality of records and information entrusted to the IRS. It states that every IRS employee with access to tax returns, return

information, personally identifiable information, and sensitive but unclassified information is responsible for protecting the information from disclosure. They are also responsible for knowing when disclosures are authorized.

When examiners improperly disclose confidential taxpayer information to unauthorized individuals, they violate federal law and the taxpayer's legal right to privacy.⁷



Examiners did not always follow pre-contact procedures

We found that examiners did not always follow the required pre-contact procedures, which increases the risk of contacting taxpayers directly when they are represented. We identified 11 potential violations in our sample in which examiners either did not check for a valid POA or document that they did before contacting the taxpayer.

IRS procedures require examiners to check for an active power of attorney before first contact and to document this in the case file. In 7 of 11 potential violations, examiners did not document that they checked for a valid POA in the case file. IRS management agreed and noted documentation is needed to show what steps were taken. In the other four potential violations, examiners either failed to check for a POA or overlooked a POA, resulting in required notices not being sent or direct contact with the taxpayer. Management agreed with 9 of the 11 potential violations but viewed them as procedural lapses, not violations of law.

We agree that these actions were not legal violations. However, not following procedures to identify a valid POA can result in the taxpayer not receiving the protections they are guaranteed. If an examiner is unaware that a taxpayer has a representative, they may violate the law by contacting the taxpayer directly. The IRS needs to make sure examiners follow pre-contact procedures to protect taxpayer rights, including checking for a valid POA on file and properly documenting that this step was taken.

Examiners did not follow revocation and withdrawal procedures

IRS guidance outlines that taxpayers may revoke a POA, and representatives may withdraw, by submitting a signed written statement. Examiners must document any revocation or waiver of representation in the case file, make a copy of the written statement, and forward it to the CAF unit within 24 hours of receipt to ensure IRS records are promptly updated. We identified five potential violations in our sample where examiners potentially failed to follow these procedures. For example, the examiners acted on verbal revocations or withdrawals without obtaining written confirmation; failed to forward the POA's written withdrawal for processing; or timely submitted the POA's withdrawal, but the CAF unit experienced delays processing the request. IRS management agreed with the majority of the violations we identified. For the others, IRS management acknowledged procedures were not followed. However, they stated taxpayer rights were not violated since the intent of the representative to withdraw from representing the taxpayer was honored.

When examiners bypass authorized representatives without a signed revocation, withdrawal, or waiver, the IRS risks violating taxpayer rights guaranteed under the law.⁸ These failures weaken

⁷ I.R.C. § 6103(c).

⁸ I.R.C. §§ 6103 and 7521.

taxpayer confidence in IRS procedures and undermine legal protections that ensure fair and informed representation during the examination process. In addition, untimely processing of revocations or withdrawals by the CAF unit further delays the termination of POAs on file, prolonging the window for potential unauthorized access.

The Director, Examination, SB/SE Division, should:

Recommendation 1: Remind Field Examination employees that a Form 8821 does not permit the designee to act on behalf of the taxpayer.

Management's Response: IRS management agreed with this recommendation and will remind Field Examination employees that a Form 8821 designee is authorized to receive taxpayer information but is not permitted to act on behalf of the taxpayer.

Recommendation 2: Ensure that the respective group managers discuss the 38 potential violations we identified with the employees responsible.

Management's Response: IRS management disagreed with this recommendation. Due to the delayed nature of retrospective discussions, they do not believe this approach is the most effective means of reinforcing compliance. Instead, the actions outlined under Recommendations 1 and 3, focusing on timely education, clarification of authority for Form 8821, and reinforcement of representation verification procedures provide for a more efficient and consistent approach for informing SB/SE Field Examination employees, and helping to prevent future procedural lapses.

Office of Audit Comment: Discussing these past issues directly with responsible employees is an important management tool to reinforce compliance expectations, promote individual accountability, and correct behaviors that may have contributed to the violation. Failing to address them with the employees risks leaving the underlying problems unresolved, weakening effectiveness or corrective actions, and increasing the likelihood of repeated procedural lapses. Some of the 38 potential violations involved procedural lapses related to IRS examiners bypassing taxpayer representatives. The IRS's response states that IRC Section 7521 only applies to in-person interviews; however, as the IRS has agreed in previous related audits, the right to representation is not just limited to in-person interviews. IRS management should work towards consistent application of bypass procedures across all examination types to protect taxpayers' right to representation.

Recommendation 3: Remind field examiners and group managers of the need to verify and document taxpayer representation before initiating contact and reinforce procedures for handling revocations or withdrawals of representation.

Management's Response: IRS management agreed with this recommendation and will remind SB/SE Field Examiners of the requirement to verify and document a taxpayer's representation status before initiating contact and reinforce procedures for handling and submitting revocations and withdrawals of representation.

Some Taxpayers' Representatives Were Not Provided Notices Due to Inconsistent Guidance or Procedural Lapses

We identified six potential violations in which required notices, such as appointment confirmation letters or information requests, were not sent to the taxpayer's representative as mandated by the Statement of Procedural Rules (Procedural Rules), or to the taxpayer's designee. According to the Procedural Rules, a taxpayer may designate up to two representatives (but not more than two) to receive notices and other written communications.⁹ The Procedural Rules provide that when a taxpayer does not designate a representative to receive IRS notices and communications, the IRS should send them to the first listed representative on the POA form. The Form 2848 allows the taxpayer to elect their authorized representative to receive notices and written communications. Figure 1 shows where on Form 2848 the taxpayer can make this election.

Figure 1: Excerpt Taken From Form 2848

2 Representative(s) must sign and date this form on page 2, Part II.	
Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
<div style="border: 2px solid red; padding: 2px;">Check if to be sent copies of notices and communications <input type="checkbox"/></div> Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

Source: Excerpt taken from IRS Form 2848 (Rev. January 2021).

According to IRS procedures, the CAF unit will place an indicator on the taxpayer's account if one or both of the boxes on line 2 of Form 2848 are checked. This will ensure that the IRS complies with sending systemically generated notices, such as a notice of lien release, and other communications to the taxpayer and their representative(s). In addition, the indicator helps ensure other IRS employees send manually generated communications, such as appointment letters, to the taxpayer's representative.

In some potential violations, Form 2848 was not properly processed by the CAF unit. As a result, a representative did not receive the required IRS correspondence, or an assigned examiner provided notices directly to the representative based on the taxpayer's intent after receiving the form prior to CAF processing. The IRS acknowledged that the POA forms had the box on line 2 checked, but the CAF unit did not correctly update the taxpayer's account with this information. Failure to properly process these forms imposes an unnecessary burden on taxpayers and potentially violates their right to representation.

In other instances, the taxpayer elected to have their representatives receive notices and written communications, yet the examiner failed to provide them. The IRS agreed that employee error

⁹ Section 601.506 is set forth in Subpart E of the Statement of Procedural Rules, 26 Code of Federal Regulations., Part 601. Subpart E prescribes conference and practice requirements governing the representation of taxpayers before the Internal Revenue Service. In contrast to Treasury Regulations promulgated under provisions of the Internal Revenue Code, the procedural rules do not carry the force and effect of law and are exempt from the notice-and-comment requirements under the Administrative Procedure Act. See 5 U.S.C. § 553(b)(A) (exempting "rules of agency organization, procedure, or practice").

led to some of the violations. In other instances, the IRS disagreed with our conclusions citing either a lack of a pre-audit check or uncertainty regarding the status of the authorization. However, as previously noted, the IRS's procedures require examiners to confirm whether there was a POA on file to ensure they take the appropriate actions.

Procedural consistency is needed to prevent confusion and ensure compliance

We identified 10 potential violations where required notices were not sent to the taxpayer's representative as required by the Procedural Rules. Of these 10 cases, 5 cases involved Forms 2848 that did not have the box on line 2 checked to receive notices. According to the Internal Revenue Manual (IRM), employees should provide copies of notices to the taxpayer if the taxpayer checks the box on line 2 of Form 2848. In contrast, the Procedural Rules state that any notice or written communication required by the IRS must be sent to the taxpayer and, unless specified otherwise, to their representative.¹⁰ If the taxpayer does not designate a representative to receive notices, the Procedural Rules requires the IRS to send notices to the first recognized representative listed on the POA.¹¹ In other words, the IRM requires a taxpayer to opt in for their representative to receive notices and directs employees to not send notices to a representative if a POA is not designated. Whereas the Procedural Rules require taxpayers to opt out from their representatives' receiving notices. This inconsistency impacts Form 2848, which follows the IRM guidance and results in some taxpayer representatives not receiving copies of taxpayer notices.

IRS management agreed with four of the identified potential violations, stating they were due to employee error. The IRS disagreed with the remaining six findings stating that the examiners followed the IRS procedure, which is more current than the Procedural Rules. The IRS also stated that employees are trained and held accountable to the IRM, not the Procedural Rules. However, the IRS acknowledged that its procedures and the current version of Form 2848 do not align with the Procedural Rules. To resolve this, IRS management stated they plan to revise both Form 2848 and the IRM to align with the Procedural Rules. We believe this will help correct procedural errors and reduce the risk of unintentional bypass of authorized representatives.

The Director, Accounts Management, Taxpayer Services, should:

Recommendation 4: Reinforce to the CAF unit the importance of timely and accurate processing of Forms 2848 and 8821.

Management's Response: IRS management agreed with this recommendation and issued an email on July 1, 2025, advising the Centralized Authorization File Processing sites of the importance of processing Form 2848, *Power of Attorney and Declaration of Representative*, and Form 8821, *Tax Information Authorization*.

The Director, Examination, SB/SE Division, should:

Recommendation 5: Coordinate with the Offices of Chief Counsel and Professional Responsibility, to revise Form 2848 and its instructions to better reflect taxpayer intent and procedural requirements.

¹⁰ IRM 4.11.55.2.9 (May 29, 2018).

¹¹ Treas. Reg. § 601.506(a)(1).

Management's Response: IRS management agreed with this recommendation stating SB/SE Examination will engage the Office of Professional Responsibility and Chief Counsel to recommend revisions to Form 2848 that better reflect taxpayer intent and procedural requirements.

Recommendation 6: Evaluate and update the Internal Revenue Manual 4.11.55.2.9 to reflect revised procedures for communication with taxpayer representatives. Following the IRM update, develop and deliver training to all examination employees to ensure consistent understanding and application of the updated procedures.

Management's Response: IRS management disagreed with this recommendation, stating that revisions to the IRM will be dependent upon whether changes are made to Form 2848.

Office of Audit Comment: We recognize that IRS management has stated IRS revisions are dependent on updates to Form 2848; however, the IRS has also acknowledged that current procedures and the form are not fully aligned. Clear and consistent guidance is critical to protect taxpayers' rights to representation and to ensure that their authorized representatives receive all required notices. Implementing these changes in a timely manner will help correct procedural errors and reduce the risk of representatives not receiving important taxpayer notices.

Field Examination's Quality Review Process Does Not Identify Direct Contact Violations

Field Examination's current quality review process is inadequate to identify direct contact violations. Specifically, the Field Examination quality review process focuses on confirming whether Publication 1 was issued and whether confidentiality was maintained but does not evaluate compliance with direct contact requirements. In comparison, the SB/SE Division's Campus Examination and Collections review processes include quality attributes/criteria specifically designed to verify whether an employee appropriately contacted a taxpayer's authorized representative.

The absence of quality review attributes for identifying direct contact violations in Field Examination limits the IRS's ability to detect and monitor these issues effectively. Without clear criteria to assess whether examiners properly contacted authorized representatives, the IRS cannot determine whether violations are occurring, or whether existing quality review systems, such as Embedded Quality or the National Quality Review System, are identifying them. This gap also hinders Field Examination from recognizing patterns of noncompliance and taking timely corrective action.

We identified Field Examination cases with potential direct contact violations that had undergone IRS quality review. These reviews did not detect any of the violations we discovered because there were no relevant quality attributes to address the right to representation.

To address this, Field Examination should adopt quality review attributes/criteria consistent with those used in SB/SE Campus Examination. These attributes/criteria should specifically assess whether examiners attempted to contact the taxpayer's representative when one was

authorized. Without these safeguards in place, the risk of undetected violations, and the undermining of taxpayer rights, will remain.

Recommendation 7: The Director, Examination, SB/SE Division, should revise the Field Examination quality review procedures to update the Embedded Quality and National Quality Review System process to evaluate employee compliance with direct contact provisions and taxpayers' rights to representation.

Management's Response: IRS management disagreed with this recommendation because the Embedded Quality Review System contains Attribute 617, *TP/POA Rights and Notifications*, and 101, *Pre-Plan Activity*, to address taxpayer contact and rights. Document 12354, *Embedded Quality, Field & Office Examination Job Aid*, includes "Points to Consider" to assist in the review of casework, which consists of IRM requirements or reminders of items to look for in a case file. This section helps the reviewer focus on the parts of a procedures that are the most common when rating the quality of the actions taken. Document 12354 is not intended to be an all-inclusive list of situations the supervisor may encounter.

Office of Audit Comment: While IRS management notes that the Embedded Quality Review System Attributes 617 and 101, as well as Document 12354 provide guidance on taxpayer contact and rights, these tools do not include specific criteria to evaluate compliance with direct contact requirements in Field Examination. Relying on general points to consider is insufficient to ensure authorized representatives are properly contacted. Field Examination should adopt clear, specific quality review attributes, consistent with Campus Examination standards, to protect taxpayers' rights and reduce the risk of undetected violations.

The IRS Has a Process to Handle the Review and Disposition of Taxpayer Allegations of Direct Contact Violations

The IRS lacks the ability to systematically detect cases in which taxpayers were denied appropriate representation unless a complaint is formally submitted. Consequently, IRS oversight in this area is mostly dependent on the initiative of individual taxpayers or representatives to report concerns to the IRS, the Treasury Inspector General for Tax Administration, the Taxpayer Advocate Service, or a congressional representative or senator. The IRS reviews reported allegations of direct contact violations to determine if there was any employee misconduct. Potential violations can also be identified by IRS managers during case reviews and during the normal course of taxpayer examinations.

As mentioned earlier, procedures require IRS employees to respect the right of taxpayers to retain representation. The IRS Office of Labor/Employee Relations and Negotiations Strategy, Employee Claims and Compliance Office oversees misconduct complaints. For those complaint referrals for which action is taken by IRS management, the dispositions of the complaint referrals (including any disciplinary actions for substantiated allegations) are entered into the Automated Labor and Employee Relations Tracking System. The use of this system helps ensure consistency in recording employee misconduct and disciplinary actions.

We identified 12 complaint referrals related to direct contact provisions that were either opened, closed, or updated from July 1, 2023, through June 30, 2024. We determined that all 12 referrals were reviewed for disciplinary action, and the IRS confirmed that 7 of the 12 complaints potentially violated direct contact violations. The disciplinary actions for these complaints included being closed with clearance, a letter of reprimand, closed without action, or a warning to the employee.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS complied with legal guidelines addressing the direct contact of taxpayers and their representatives set forth in I.R.C. §§ 7521(b)(2) and (c) and the fair tax collection practices set forth in I.R.C. § 6304(a)(2). To accomplish our objective, we:

- Determined what procedures and controls the IRS uses to ensure employees are following the direct contact provisions, fair tax collection practices, and taxpayer's right to representation.
- Obtained a data extract from the Automated Labor Employee Relations Tracking System and analyzed it to determine if any employee administrative cases from July 1, 2023, through June 30, 2024, included possible direct contact violations.
- Evaluated the effectiveness of SB/SE Field Examination employees in safeguarding taxpayer rights under the direct contact provisions, fair tax collection practices, and the statutory right to representation.
- Selected and reviewed a stratified random sample of 75 field examination cases from a population of 48,875 cases closed by SB/SE Field Examination Revenue Agents (RAs) and Tax Compliance Officers (TCOs) from July 1, 2023, through June 30, 2024. Cases were stratified into two strata based on the type of IRS employee who worked the case, RA, or TCO. Case reviews were conducted using the Correspondence Examination Automation Support (CEAS) system and IRS provided case history narratives. A statistical sample was used to allow the results to be projected to the overall population. We relied on TIGTA's contract statistician and an internal TIGTA statistician to verify our sampling methods. We selected our sample using a 95 percent confidence level, a ± 5 percent precision factor, and a 5 percent estimated error rate. Our review of the sample identified 38 potential violations across 21 examination cases. In 8 of these 21 cases, field examiners committed multiple potential violations. This resulted in a 28 percent error rate and a projected total of 13,685 examination cases that may have potential violations. In addition, we are 95 percent confident that the total number of potential violations is between 8,915 and 19,336.

Performance of This Review

This review was performed with information obtained from the SB/SE Division's National Headquarters Examination function located in Lanham, Maryland during the period of October 2024 through May 2025. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Data Validation Methodology

We performed tests to assess the reliability of data from the Automated Labor and Employee Relations Tracking System, the Audit Information Management System and the Correspondence Examination Automation Support system. We evaluated the data by (1) performing electronic testing of required data elements and (2) reviewing existing information about the data and the system that produced them. We determined that the data was sufficiently reliable for purposes of this report.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the IRS's policies, procedures, and practices related to responding to taxpayer and taxpayer representative allegations of IRS employee violations of the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c), the fair tax collection practices of I.R.C. § 6304(a)(2), and the general right to representation set out in I.R.C. § 7803(a)(3)(I). We evaluated these controls by interviewing management, reviewing IRM guidance provided to managers and employees, reviewing allegations of direct contact violations within IRS's Automated Labor and Employee Relations Tracking System and reviewing case history narratives of cases we selected.

Appendix II

Outcome Measure

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

- Taxpayer Rights and Entitlements – Potential; 13,685 examination cases where the examiner did not consistently follow procedures meant to protect the taxpayer’s right to representation (see Recommendations 1 - 7).

Methodology Used to Measure the Reported Benefit:

We selected a statistically valid stratified random sample of 75 of the 48,875 SB/SE Revenue Agent (RA) and Tax Compliance Officer (TCO) examination cases that were closed between July 1, 2023, and June 30, 2024, for taxpayers with an authorized representative or designee. The sample size was determined using a 95 percent confidence level, a 5 percent expected error rate, and a ± 5 percent precision factor.

Case reviews were conducted using the Correspondence Examination Automation Support (CEAS) system and IRS-provided case history narratives. A statistical sample was used to allow the results to be projected to the overall population. We relied on TIGTA’s contract statistician and an internal TIGTA statistician to validate our sampling methodology.

We identified 38 potential violations within 21 of the 75 examination cases reviewed. In 8 of these 21 cases, field examiners committed multiple potential violations. These included:

- Potential violations where examiners improperly bypassed authorized representatives, in violation of I.R.C. §§ 7521(c) and 7803(a)(3)(I).
- [REDACTED]
- Potential violations where examiners did not always follow pre-contact procedures.
- Potential violations where examiners did not follow revocation and withdrawal procedures.
- Potential violations where taxpayers’ representatives were not provided notices due to inconsistent guidance or procedural lapses.

Using a two-sided 95 percent confidence interval and the total population of 48,875 cases, we estimate that 13,685 examination cases may have similar potential violations. In addition, we are 95 percent confident that the total number of potential violations is between 8,915 and 19,336.

Management’s Response: The IRS disagrees that the 21 cases cited reflect a failure to protect taxpayer rights because in many instances, actions taken by examiners were consistent with existing IRM procedures and taxpayer elections. Procedural lapses, such as missing documentation or delays in representation status, did not result in legal violations or harm to taxpayer rights and therefore it is believed the outcome measure overstates the impact of these cases.

Office of Audit Comment: The outcome measure is valid and reasonable as presented. We based the estimate on documented instances where field examiners bypassed authorized representatives, disclosed taxpayer information beyond what was permitted, failed to follow pre-contact, revocation, or withdrawal procedures, and did not provide required notices to representatives. These lapses created situations where taxpayers' rights could have been affected. The outcome measure reflects the potential impact and helps highlight areas where procedural improvements are needed to better protect taxpayers' rights.

Appendix III

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

August 29, 2025

MEMORANDUM FOR DIANA M. TENGESDAL
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Elizabeth J. Kinzer
Lia Colbert Kinzer
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2025 Statutory Review of
Restrictions on Directly Contacting Represented Taxpayers
(Audit No.: 2025300008)

Digitally signed by Elizabeth J.
Kinzer
Date: 2025.08.29 15:44:42
-05'00'

Thank you for the opportunity to review and comment on the subject draft audit report, which evaluates IRS compliance with statutory requirements involving direct contact provisions of IRC 7521. The IRS is committed to helping taxpayers meet their tax responsibilities while ensuring their rights are protected.

From a population of 48,875 examination cases with a representative or designee, TIGTA reviewed 75 cases and identified 21 cases with one or more potential violations. The IRS concurs with nine of the cases and we recognize improvements can be made to help ensure taxpayer rights are protected throughout the examination process. We do not concur with the finding that "IRS employees did not consistently follow legal and procedural requirements related to direct taxpayer contact and representation" for the reasons discussed below.

While we acknowledge TIGTA's concern regarding direct contact with represented taxpayers, we disagree with the assertion that any contact with a represented taxpayer constitutes a bypass and is a violation of a taxpayer's right to representation. IRC 7521 does not prohibit all direct contacts with taxpayers, but rather only direct contacts made in connection with in-person interviews after the taxpayer states that they wish to consult with a representative or that the representative is authorized to represent the taxpayer in the interview. In those limited circumstances, an employee or officer must comply with formal bypass procedures to bypass the representative if the employee believes the representative is responsible for unreasonable delay or hindrance of the examination. Certain scenarios result in direct taxpayer contact without bypassing a representative such as taxpayer-initiated contacts, taxpayers who indicate intent to

**Fiscal Year 2025 Statutory Review of
Restrictions on Directly Contacting Represented Taxpayers**

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handle certain issues without the representative, or contacts necessary to uphold a taxpayer's right to be informed. Our goal is to always protect taxpayer rights while ensuring efficient and informed case handling.

We agree that Form 8821 designees are not authorized to represent taxpayers before the IRS. However, a valid Form 8821 allows a designee to receive confidential tax information, and disclosures made within the scope of the authorization are permitted. To ensure future compliance, we will remind examiners to consider the difference between authorized disclosures to designees and acts reserved for authorized representatives.

With respect to pre-contact verification of representation, current procedures instruct employees to verify and document if a valid representative exists prior to initial contact. While the IRS agrees documentation was lacking in some case files, we maintain that contact in these cases neither violated the law, nor taxpayer rights.

We acknowledge that written revocations or withdrawals are the preferred method for terminating representation. The IRS has procedures to process and submit revocations and withdrawals to the Centralized Authorization File (CAF) unit. However, there are circumstances when a taxpayer's clear oral statement is sufficient, and it is appropriate to follow the taxpayer's oral direction. Nonetheless, we agree improved documentation is necessary.

The application of IRC 6304(a)(2), *Communication with the taxpayer*, and 26 CFR 601.506(a), *Notices to be given to recognized representative*, were cited in relation to case violations; however, we do not agree with these findings. IRC 6304(a)(2) pertains specifically to collection activities, not to examination activities and, therefore, does not apply to the cases reviewed for this audit. Additionally, 26 CFR 601.506 is a procedural rule supplemented by more current IRM guidance. Under current procedures, taxpayers elect whether their representative receives written notices and communications. When IRS employees follow current procedures and honor the taxpayer's election, the cases should not be deemed as violations.

We are committed to protecting taxpayer rights and work hard to ensure our examiners are aware of and protect those rights through guidance, training, and regular management reviews. Looking ahead, we agree that further steps can be taken to prioritize enhancements that reinforce taxpayer rights.

Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or Richard L. Tierney, Director, Examination, Small Business/Self-Employed Division.

Attachment

Recommendations

The Director, Examination, SB/SE Division, should:

RECOMMENDATION 1:

Remind Field Examination employees that a Form 8821 does not permit the designee to act on behalf of the taxpayer.

CORRECTIVE ACTION:

We agree. We will remind Field Examination employees that a Form 8821 designee is authorized to receive taxpayer information but is not permitted to act on behalf of the taxpayer.

IMPLEMENTATION DATE:

June 15, 2026

RESPONSIBLE OFFICIAL:

Director, Examination Field and Campus Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 2:

Ensure that respective group managers discuss the 38 potential violations we identified with the responsible employees.

CORRECTIVE ACTION:

We disagree. Due to the delayed nature of retrospective discussions, we do not believe this approach is the most effective means of reinforcing compliance. Instead, the actions outlined under Recommendations 1 and 3, focusing on timely education, clarification of authority for Form 8821, and reinforcement of representation verification procedures provide for a more efficient and consistent approach for informing SB/SE Field Examination employees, and helping to prevent future procedural lapses.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

RECOMMENDATION 3:

Remind field examiners and group managers of the need to verify and document taxpayer representation before initiating contact and reinforce procedures for handling revocations or withdrawals of representation.

CORRECTIVE ACTION:

We agree. We will remind SB/SE field examiners of the requirement to verify and document a taxpayer's representation status before initiating contact and reinforce procedures for handling and submitting revocations and withdrawals of representation.

IMPLEMENTATION DATE:

June 15, 2026

RESPONSIBLE OFFICIAL:

Director, Examination Field and Campus Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

The Director, Accounts Management, Taxpayer Services, should:

RECOMMENDATION 4:

Reinforce to the CAF unit the importance of timely and accurate processing of Forms 2848 and 8821.

CORRECTIVE ACTION:

We agree. We issued an email on July 1, 2025, advising the Centralized Authorization File Processing sites of the importance of processing the Form 2848, *Power of Attorney and Declaration of Representative*, and Form 8821, *Tax Information Authorization*.

IMPLEMENTATION DATE:

Implemented

RESPONSIBLE OFFICIAL:

Director, Accounts Management, Customer Account Services, Taxpayer Services Division

CORRECTIVE ACTION MONITORING PLAN:

N/A

The Director, Examination, SB/SE Division, should:

RECOMMENDATION 5:

Coordinate with the Offices of Chief Counsel and Professional Responsibility, to revise Form 2848 and its instructions to better reflect taxpayer intent and procedural requirements.

CORRECTIVE ACTION:

We agree. SB/SE Examination will engage the Office of Professional Responsibility and Chief Counsel to recommend revisions to Form 2848 that better reflect taxpayer intent and procedural requirements.

IMPLEMENTATION DATE:

March 15, 2026

RESPONSIBLE OFFICIAL:

Director, Examination Field and Campus Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 6:

Evaluate and update the Internal Revenue Manual 4.11.55.2.9 to reflect revised procedures for communication with taxpayer representatives. Following the IRM update, develop and deliver training to all examination employees to ensure consistent understanding and application of the updated procedures.

CORRECTIVE ACTION:

We disagree. Revisions to the IRM will be dependent upon whether changes are made to Form 2848.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 7:

The Director, Examination, SB/SE Division, should revise the Field Examination quality review procedures to update the Embedded Quality and National Quality Review System process to evaluate employee compliance with direct contact provisions and taxpayers' rights to representation.

CORRECTIVE ACTION:

We disagree. The Embedded Quality Review System (EQRS) contains Attribute 617, *TP/POA Rights and Notification*, and 101, *Pre-Plan Activity*, to address taxpayer contact and rights. Document 12354, *Embedded Quality, Field & Office Examination Job Aid*, includes "Points to Consider" to assist in the review of casework, which consist of IRM requirements or reminders of items to look for in a case file. This section helps the reviewer focus on the parts of a procedure that are the most common when rating the quality of the actions taken. Document 12354 is not intended to be an all-inclusive list of situations the supervisor may encounter.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

OUTCOME MEASURE:

Taxpayer Rights and Entitlements – Potential; 21 Taxpayer accounts where the examiner may not have appropriately followed procedures meant to protect the taxpayer's right to representation (see Recommendations 1-7).

IRS RESPONSE:

We disagree. The 21 cases cited under the outcome measure do not reflect a failure to protect taxpayer rights. In many instances, actions taken by examiners were consistent with existing IRM procedures and taxpayer elections. Procedural lapses, such as missing documentation or delays in recording representation status, did not result in legal violations or harm to taxpayer rights. Therefore, we believe the outcome measure overstates the impact of these cases.

Appendix IV

Glossary of Terms

Term	Definition
Automated Labor and Employee Relations Tracking System	An application used to track labor/employee relations case data. It was developed to ensure consistency in tracking labor and employee relations disciplinary actions.
Centralized Authorization File	Contains information about the types of authorizations taxpayers have given their representatives for their tax returns.
Correspondence Examination Automation Support	A suite of web-based applications developed to enhance the examination process. The application also enables case assignment and transfer between examination groups and batch groups. It facilitates universal view of the campus exam case inventory records and allows the display of client-generated tax reports and letters associated with the exam case.
Embedded Quality Review System	A system designed to assist managers in assessing employee performance, in identifying opportunities to build employee skills, in enhancing employee strengths, and in developing employee quality improvement strategies.
Field Office (Examination Function)	Examination function Area Offices consisting of revenue agents and tax compliance officers who primarily perform examinations of individuals, partnerships, and corporations.
Internal Revenue Code	The body of law that codifies all Federal tax laws. These laws constitute Title 26 of the United States Code, which is a consolidation and codification by subject matter of the general and permanent laws of the United States.
Internal Revenue Manual	The primary, official source of IRS instructions to staff related to the organization, administration, and operation of the IRS. The Manual contains the directions employees need to carry out their operational responsibilities.
National Quality Review System	Used by quality reviewers to capture national program review data obtained through case reviews. It's also used to report the official organizational business quality reviews.
Power of Attorney	A taxpayer's written authorization for a designated individual or individuals to perform certain specified acts on the taxpayer's behalf.
Revenue Agent	An employee in the Examination function who conducts face-to-face examinations of more complex tax returns, such as businesses, partnerships, corporations, and specialty taxes.
Tax Compliance Officer	An employee in the Examination function who primarily conducts examinations of individual taxpayers through interviews at IRS field offices.

Appendix V

Abbreviations

CAF	Centralized Authorization File
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
POA	Power of Attorney
RA	Revenue Agent
SB/SE	Small Business/Self-Employed
TCO	Tax Compliance Officer
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
contact our hotline on the web at
<https://www.tigta.gov/reportcrime-misconduct>.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

The information you provide is confidential, and you may remain anonymous.