

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2024 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns

September 17, 2024

Report Number: 2024-300-051

HIGHLIGHTS: Fiscal Year 2024 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns

Final Audit Report issued on September 17, 2024

Report Number 2024-300-051

Why TIGTA Did This Audit

This audit was initiated because the IRS Restructuring and Reform Act of 1998 requires TIGTA to annually review and certify the IRS's compliance with the requirements of Internal Revenue Code (I.R.C.) § 6103(e)(8). The Taxpayer Bill of Rights 2 added I.R.C. § 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed and the individuals filing the return are no longer married or no longer reside in the same household, the IRS shall disclose to the individual making the request as to whether the IRS has attempted to collect the balance due from the other individual, the general nature of the collection activities, and the amount collected.

I.R.C. §§ 6103(e)(6) and (e)(7) allow authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8).

Impact on Tax Administration

In Calendar Year 2015, the Taxpayer Bill of Rights was codified in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*. If the IRS does not provide taxpayers with account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

What TIGTA Found

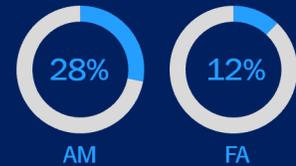
TIGTA reviewed 100 case history files from the Wage and Investment Division to determine whether employees followed the joint return disclosure requirements on collection information requests. TIGTA determined that disclosure requirements were not followed in 14 (28 percent) of the 50 Accounts Management (AM) cases and six (12 percent) of the 50 Field Assistance (FA) cases reviewed. In 16 cases, taxpayers or their representatives did not receive information related to collection activities of the taxpayers' joint liabilities to which they were entitled, and in four cases, the taxpayers' information was inappropriately disclosed. These taxpayers were either potentially burdened with additional delays in resolving their respective tax matter or potentially had their right to privacy violated.

Five of the 20 AM and FA cases for which disclosure requirements were not followed had "mirrored accounts." The same collection information, when requested for mirrored accounts, should be disclosed to both taxpayers as would be disclosed for any other jointly filed return, except for unrelated personal information. TIGTA also interviewed 30 contact representatives, individual taxpayer advisory specialists, and their respective managers to determine what collection activity information the employees would disclose from a jointly filed return, whether the taxpayers were currently married, separated, or divorced, and with mirrored or non-mirrored accounts. Nineteen employees and six managers interviewed either responded incorrectly or were unsure about one or more questions related to what information could or could not be disclosed.

What TIGTA Recommended

TIGTA recommended that the IRS: 1) update specific Internal Revenue Manual (IRM) sections to include examples of situations in which IRS employees can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e) requirements and define mirrored accounts, 2) update IRM 11.3.2 to include a reference to specific Accounts Management and Field Assistance IRMs, and 3) provide I.R.C. §§ 6103 (e)(7) and (e)(8) refresher training to contact representatives and individual taxpayer advisory specialists. This training should include information about the usefulness and availability of the Disclosure Office and Disclosure Help Desk. IRS management agreed with all three recommendations and plans to implement corrective actions.

The IRS did not follow the joint disclosure requirements for AM and FA cases with a joint tax liability.



We found a 28 percent and a 12 percent error rate in AM and FA cases.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20024

September 17, 2024

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in cursive script, reading "Danny R. Verneuille".

FROM: Danny R. Verneuille
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit No.: 2024300004)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) was complying with the provisions of Internal Revenue Code § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. This review is part of our Fiscal Year 2024 Annual Audit Plan and addresses the major management and performance challenge of *Taxpayer Rights*.

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

Table of Contents

<u>Background</u>	Page 1
<u>Results of Review</u>	Page 3
<u>Employees Are Not Consistently Disclosing Collection Activity on Jointly Filed Returns As Required</u>	Page 3
<u>Recommendation 1:</u>	Page 9
<u>Recommendations 2 and 3:</u>	Page 10
Appendices	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u>	Page 11
<u>Appendix II – Outcome Measures</u>	Page 13
<u>Appendix III – Management’s Response to the Draft Report</u>	Page 14
<u>Appendix IV – Abbreviations</u>	Page.19

Background

The Taxpayer Bill of Rights 2 added Internal Revenue Code (I.R.C.) § 6103(e)(8), which provides that if any deficiency of tax with respect to a joint return is assessed (hereafter referred to as balance due) and the individuals filing the return are no longer married or no longer reside in the same household (hereafter referred to as divorced or separated), upon request in writing by either of the individuals, the Internal Revenue Service (IRS) shall disclose in writing to the individual making the request as to whether the IRS has attempted to collect the balance due from the other individual, the general nature of the collection activities, and the amount collected.¹ I.R.C. §§ 6103(e)(6) and (e)(7) allows authorized representatives of joint filers to also receive the same collection information requested under I.R.C. § 6103(e)(8). If the IRS does not provide taxpayers the account information to which they are entitled, taxpayers could be burdened and their ability to resolve their tax obligations may be negatively impacted. If the IRS provides taxpayers with account information to which they are not entitled, taxpayer rights are violated.

After the passage of the Taxpayer Bill of Rights 2, the IRS Disclosure Office issued Internal Revenue Manual (IRM) procedures for all IRS employees to follow regarding written requests, including those for joint filer tax return information. These procedures allow IRS employees to provide both oral and written responses to taxpayers.² This is more permissive than the statutory requirements of I.R.C. § 6103(e)(8), which only requires the IRS to provide written responses to written requests. In Calendar Year 2015, Congress codified the Taxpayer Bill of Rights in I.R.C. § 7803(a)(3), the first of which is *the right to be informed*.

The IRS Restructuring and Reform Act of 1998 (RRA 98) requires the Treasury Inspector General for Tax Administration (TIGTA) to annually review and certify whether or not the IRS is complying with the requirements of I.R.C. § 6103(e)(8) to disclose collection information to joint filers when they send in a written request.³ We cannot readily identify the population of cases for which joint filers made such requests because the IRS does not have, and does not plan to implement, a system to identify or track joint filer requests for collection activity. To identify these requests, the IRS would have to conduct a manual review of every taxpayer case in the collection process with a jointly filed tax return, looking for a notation in the case history file or a copy of the taxpayer's letter.

During our Fiscal Year (FY) 2023 review, we focused on the Small Business/Self Employed (SB/SE) Division's Field Collection function and the Automated Collection System operation.⁴ We reviewed 30 Field Collection case histories and 30 Automated Collection System case histories to

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

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

² IRM 5.1.22.4.1(5) (Aug. 1, 2019) and IRM 5.1.22.7(1) (Aug. 1, 2019).

³ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

⁴ TIGTA, Report No. 2023-30-063, *Fiscal Year 2023 Mandatory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Sept. 2023).

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

determine whether employees followed the joint return disclosure requirements for collection information requests. We determined that disclosure requirements were not followed in seven (23 percent) of the 30 Field Collection cases and eight (27 percent) of the 30 Automated Collection System cases. In most of the 15 cases, these taxpayers or their representatives did not receive information related to collection activities of the taxpayer's joint liabilities, which they were entitled to by statute, and were potentially burdened with additional delays in resolving their respective tax matter.

We also interviewed a judgmental sample of 30 SB/SE Division Collection function employees and managers to determine what collection activity information the employees would disclose from a jointly filed return when the taxpayers were married, separated, or divorced, and with mirrored or non-mirrored accounts.⁵ Twenty-two employees and six managers responded incorrectly or were unsure about one or more questions related to what information could or could not be disclosed to a divorced or separated taxpayer requesting information on a joint return. TIGTA found similar results in its FY 2021 and FY 2022 reviews.⁶

This year's review focused on the Wage and Investment (W&I) Division's Accounts Management (AM) function in the Customer Account Services organization and Field Assistance (FA) function in the Customer Assistance, Relationships, and Education organization.⁷ Contact representatives within the AM function assist taxpayers with tax law and account-related inquiries, including basic collection information such as balance inquiries, via telephone, correspondence, and web applications. Individual taxpayer advisory specialists (ITAS) within the FA function provide face-to-face assistance to taxpayers regarding tax account-related inquiries and educate taxpayers on services available to them through all channels, including self-service. The ITASs work with taxpayers in the more than 300 Taxpayer Assistance Centers located throughout the country. Both contact representatives and the ITASs document actions taken on taxpayer accounts in the Accounts Management System (AMS).⁸

⁵ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population. Mirroring a joint account sets up two tax accounts, one for each taxpayer. Establishing two separate accounts provides a way for the IRS to administer and track collection activity unique to each of the taxpayers.

⁶ In TIGTA, Report No. 2021-30-050, *Fiscal Year 2021 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Aug. 2021), TIGTA reviewed the AM and FA functions in the IRS's W&I Division and determined that disclosure requirements were not followed in 26 out of 124 AM case histories and three out of 20 FA case histories. We interviewed a judgmental sample of 24 employees and found that 17 of the 24 employees interviewed responded incorrectly to one or more questions. In TIGTA, Report No. 2022-30-058, *Fiscal Year 2022 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns* (Sept. 2022), TIGTA focused on the IRS's Office of Appeals (Appeals) and the Taxpayer Advocate Service and determined that disclosure requirements were not followed in eight of the 122 reviewed Appeals case histories. No issues were found in the Taxpayer Advocate Service case histories, but all 25 Appeals employees interviewed answered one or more questions incorrectly.

⁷ On April 7, 2024, the W&I Division was renamed Taxpayer Services.

⁸ The AMS provides a common user interface that allows users to update taxpayer accounts, view history and comments from other systems, and access a variety of case processing tools. AMS histories are input by employees in the SB/SE Division's Automated Collection System operation and the W&I Division's AM and FA functions; however, we only reviewed histories input by AM and FA employees.

Results of Review

TIGTA's FY 2024 review of collection information requests for jointly filed returns identified issues with the understanding of disclosure requirements by both IRS employees and managers. In both case history reviews and interviews, IRS employees and managers were not aware of what information they should and should not disclose to taxpayers. These errors potentially burdened taxpayers or their representatives with additional delays in resolving their respective tax matters or had their right to privacy violated.

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

Over the last eight years, we have interviewed IRS employees about their responses to collection information requests for jointly filed returns from taxpayers who are divorced or separated. We have also queried electronic history files in an attempt to identify the entire population of these requests. Due to the lack of indicators within the case history files and tracking system, we have been unable to identify this population. However, beginning in FY 2018, we evaluated the results of the queried electronic history files and identified some cases related to taxpayers requesting collection information associated with their jointly filed returns.

As part of this year's review, we queried AMS case history files to identify a population of joint filer disclosure contacts made from April 1, 2022, through March 31, 2023. Because there are no indicators in the AMS or other tracking system to identify cases with joint filer disclosures, we performed queries using specific keyword combinations associated with divorced or separated joint filers to identify case histories with joint filer disclosure contacts. We successfully identified 604 case histories (197 AM and 407 FA) that were potentially related to these types of contacts in the history files for the W&I Division's AM and FA functions during our audit time frame.⁹ We identified cases in which employees did not provide collection information that they should have and cases in which employees disclosed prohibited information. From the potential population, we had to review 111 AM and 140 FA case histories to identify the first 50 case histories from each population that met our criteria. In past reviews, we identified potential violations to the joint return disclosure requirements and made recommendations to improve IRS employee awareness of the requirements to provide divorced or separated taxpayers with collection information on their jointly filed returns.¹⁰ Despite our recommendations, we continue to identify issues with IRS employees' understanding of these disclosure requirements.

We continue to identify issues with employee understanding of the requirements to provide divorced or separated taxpayers with collection information on their jointly filed returns.

⁹ See Appendix I for detailed methodology of how we obtained the data.

¹⁰ In our FY 2022 review, we recommended that the IRS update disclosure guidance for both the Appeals and the Taxpayer Advocate Service, as well as require a refresher training course for their employees. In the FY 2023 review, we recommended that the IRS update the IRM for Specialty Collection Offer in Compromise to provide guidance on disclosure requirements for taxpayers who jointly filed returns and incorporate the requirements of I.R.C. §§ 6103(e)(7) and (e)(8) into refresher training for all employees and managers in the SB/SE Division Collection function who interact with taxpayers.

According to the IRM, all contact representatives and ITASs should be able to respond to taxpayer inquiries regarding balance due activity on a jointly filed return. Specifically, IRM 21.1.1.3.1 states that contact representatives must respond to certain balance due inquiries such as payoff amount, payment information, and account status, and IRM 21.3.4.13 states that all ITASs are responsible for resolving balance due inquiries. However, during our discussions with IRS officials, they explained that if an ITAS is not trained on the tax law topic, they should offer the taxpayer a referral. As of December 2023, only 201 (16 percent) of the 1,237 ITASs were provided the full balance due training. IRS officials explained that although there is no established time frame for the ITASs to complete the balance due training, it is preferred that they complete it within two years of onboarding. Contact representatives and the ITASs should be provided timely training on the topic of balance due because they are responsible for responding to these types of inquiries. This could reduce the risk of contact representatives and the ITASs improperly disclosing taxpayer information.

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

Of the 100 case histories that met our criteria, 14 (28 percent) of the 50 AM cases and six (12 percent) of the 50 FA cases did not follow joint return disclosure requirements. As a result of these errors, 16 taxpayers or their representatives were potentially burdened with additional delays in resolving their respective tax matters and four taxpayers potentially had a violation of their right to privacy.¹¹ In most of the 16 cases in which the taxpayers were potentially burdened with additional delays, the employees documented in the case histories that they could not provide any collection activity on the other joint taxpayer due to the taxpayers being divorced or separated. In the four cases in which the taxpayers' right to privacy was potentially violated, the employees inappropriately disclosed information about the ex-spouse, such as the filing status, withholding information, and bank account information. Although the IRS has updated the IRM and provided additional training to its employees, this has been a recurring issue in our annual reviews. The IRS should continue to address this ongoing issue in its respective business unit IRM sections that provide guidance to employees who may respond to taxpayer inquiries about a joint return matter.

Five (25 percent) of the 20 AM and FA cases with disclosure errors had "mirrored accounts." Mirroring an account does not divide the liability in half; each taxpayer remains liable for the entire debt. Because joint filer taxpayers remain jointly liable, the same collection information should be



¹¹ IRM 11.3.2.4.1.1(6) guidance prohibits disclosures such as the other spouse's location, name change, telephone number, employment, income, assets, the income level at which a currently-not-collectible account would be reactivated, or the bankruptcy chapter filed by the other spouse.

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

provided to both taxpayers when requested on mirrored accounts, as with any other jointly filed return, except when the request is for unrelated personal information.

As in previous years' reviews, mirrored accounts continue to be an area of difficulty for IRS employees and managers, and potentially could result in the violation of disclosure law, if not properly understood by IRS personnel. When asked about a taxpayer who was divorced or separated with a mirrored account, 19 (83 percent) of the 23 employees and six (86 percent) of the seven managers interviewed responded incorrectly that they would not disclose information or were unsure how to respond. Nine (39 percent) of the 23 employees and one (14 percent) of the seven managers interviewed responded that clearer IRMs would assist them in understanding disclosure procedures.

The Customer Account Services' IRM on Split Spousal Assessments specifies that I.R.C. § 6103(e) authorizes the IRS to disclose certain limited collection information regarding one spouse to the other spouse, relative to tax deficiencies with respect to a jointly filed return, where the individuals filing such return are no longer married or no longer reside in the same household.¹² This IRM also:

- Provides examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. 6103(e) requirements.
- Defines mirrored accounts.
- Refers employees to IRM 21.1.3.2, *General Disclosure Guidelines*, and IRM 11.3.2.4, *Persons Who May Have Access to Returns and Return Information Pursuant to IRC 6103(e)*, for more guidance on disclosure.¹³

While IRM 21.6.8, *Split Spousal Assessment*, provides some detailed guidance on I.R.C. § 6103(e), the guidance under the Accounts Management and Compliance Services Operations IRM is general and does not provide specific guidance on the information that can and cannot be disclosed. However, the IRM directs the employees to a separate IRM section, 11.3, *Disclosure of Official Information*, and advises them to contact the Disclosure Help Desk for further information.¹⁴ Similarly, the FA IRM merely states that I.R.C. § 6103 is one of the confidentiality statutes and directs employees to contact the Disclosure Help Desk and to various other IRMs, such as IRM 11.3.2.4.1.1, *Disclosure of Collection Activities with Respect to Joint Returns*, for further guidance.¹⁵ Seventeen (74 percent) of the 23 interviewed employees and four (57 percent) of the seven managers stated that they have never contacted the Disclosure Help Desk.

Neither IRM 21.1.3, *Operational Guidelines Overview*, nor IRM 21.3.4, *Field Assistance*, provide examples of situations related to I.R.C. § 6103(e) or explain the requirement for employees to disclose certain collection information to taxpayers or their authorized representatives.

¹² IRM 21.6.8.3(1) (May 20, 2022). The "audience" for IRM 21.6.8 is employees located in the business operating divisions such as SB/SE and W&I Divisions, as well as Customer Assistance, Relationships, and Education (a functional area of the W&I Division), who have contact with taxpayers by either telephone, correspondence, or personal contact.

¹³ IRM 21.6.8.3 and IRM 21.6.8.4 (May 20, 2022).

¹⁴ IRM 21.1.3.2 (Oct. 3, 2022). The audience for IRM 21.1.3 includes all IRS employees who are in contact with taxpayers by telephone, correspondence, or in person.

¹⁵ IRM 21.3.4.23(2) and IRM 21.3.4.23(3) (Oct. 25, 2021). The audience for IRM 21.3.4 is W&I Division's FA and AM employees and managers.

Additionally, these IRMs do not explain that certain collection information can be disclosed to both parties of a joint account whether the taxpayers are married, separated, or divorced, and with or without mirrored accounts. Although these IRMs refer the employees to IRM 11.3.2, *Disclosure to Persons with a Material Interest*, this IRM refers the employee back to their specific business unit IRMs with no IRM reference.¹⁶ The IRMs for Accounts Management and Compliance Services Operations, Field Assistance, and the Disclosure to Persons with a Material Interest should be updated to include the information shown in IRM 21.6.8.3, *Disclosing Taxpayer Data*, because it provides examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e) requirements and defines mirrored accounts.

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

We interviewed a judgmental sample of 30 employees and managers, including 13 contact representatives (four of which were lead contact representatives) and four respective managers from the AM function, and 10 ITASs (three of which were senior ITASs) and three respective managers from the FA function.¹⁷ We conducted the interviews to determine what collection activity information the employees would disclose from a jointly filed return in which the taxpayers were currently married, separated, or divorced, as well as with and without mirrored accounts.

During the interviews, we asked employees four questions about whether they would provide collection activity information to a married taxpayer on a jointly filed return. In addition, we asked the employees four questions about whether they would provide collection activity information on a jointly filed return to a taxpayer who was divorced or separated when the account was mirrored or non-mirrored. We found 20 (87 percent) of the 23 employees and six (86 percent) of the seven managers interviewed responded incorrectly or were unsure how to respond to one or more questions.¹⁸ The remaining three employees and one manager responded correctly to all the questions.

¹⁶ IRM 11.3.2.4.1.1 (Sept. 17, 2020).

¹⁷ Our judgmental sample of 10 ITASs included five employees who received the full balance due training and five employees who had not yet received the full training.

¹⁸ The overall number of employees (23 employees, seven managers) reflects the unique counts of employees who provided one or more incorrect responses to our questions. Therefore, the subsequent breakdown by mirrored, non-mirrored, and disclosure violations, will not add up to 23 and seven because some employees/managers answered more than one question incorrectly.

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**



Employees and managers did not consistently know what collection information they are allowed to disclose to joint filer taxpayers.

When asked questions about a taxpayer who was divorced or separated *without a mirrored account*, 15 (65 percent) of the 23 employees and five (71 percent) of the seven managers interviewed responded incorrectly that they would not disclose information or were unsure how to respond. Specifically:

- Six of the 23 employees and four of the seven managers responded they would not provide the inquiring spouse with information about whether the IRS has attempted to collect the balance due from the other spouse on their joint account, while six of the 23 employees were unsure how to respond.
- Four of the 23 employees responded they would not provide the inquiring spouse information about the collection activity from the other spouse on their joint account, while three of the 23 employees and one of the seven managers were unsure how to respond.
- Four of the 23 employees responded they would not tell the inquiring spouse the current collection status, *i.e.*, whether the module was in Currently Not Collectible (CNC) or suspended status, while two of the 23 employees and one of the seven managers were unsure how to respond.
- Nine of the 23 employees responded they would not tell the inquiring spouse why the module was deemed CNC or suspended, while three of the 23 employees were unsure how to respond.

When asked about a taxpayer who was divorced or separated *with a mirrored account*, 19 (83 percent) of the 23 employees and six (86 percent) of the seven managers interviewed responded incorrectly that they would not disclose information or were unsure how to respond. Specifically:

- Five of the 23 employees and five of the seven managers responded they would not provide the inquiring spouse with information about whether the IRS has attempted to collect the balance due from the other spouse on their joint account, while 14 of the 23 employees and one of the seven managers were unsure how to respond.

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

- Three of the 23 employees and four of the seven managers responded they would not provide the inquiring spouse with information about the collection activity from the other spouse on their joint account, while 13 of the 23 employees and two of the seven managers were unsure how to respond.
- Three of the 23 employees and two of the seven managers responded they would not tell the inquiring spouse the current collection status of the account, while 13 of the 23 employees and three of the seven managers were unsure how to respond.
- Four of the 23 employees and three of the seven managers responded that they would not tell the inquiring spouse why the module was deemed CNC or suspended, while 13 of the 23 employees and two of the seven managers were unsure how to respond.

Employees and managers were not always aware of what information they are not allowed to disclose to joint filer taxpayers

There is also information that employees should not disclose to spouses on joint accounts. Prohibited disclosures include: providing information about the other spouse's location, name change, or telephone number; information about the other spouse's employment, income, or assets; the income level of the other spouse at which a CNC module would be reactivated; or the bankruptcy chapter filed by the other spouse.¹⁹

When asked questions about a taxpayer who was divorced or separated, eight (35 percent) of the 23 employees and two (29 percent) of the seven managers interviewed responded incorrectly that they would disclose some of these prohibited items about the other spouse or were unsure how to respond. Specifically:

- One of the 23 employees responded that, for taxpayers *without a mirrored account*, they would disclose the bankruptcy chapter filed by the other spouse, for spouses who are now divorced or separated. Two of the 23 employees and one of the seven managers responded that they were unsure if they could disclose the bankruptcy chapter filed by the ex-spouse.
- One of the 23 employees and one of the seven managers responded that, for taxpayers *with a mirrored account*, they would disclose the bankruptcy chapter filed by the other spouse, for spouses who are now divorced or separated. Seven of the 23 employees and one of the seven managers were unsure if they could disclose the bankruptcy chapter filed by the ex-spouse.
- Four of the 23 employees responded that, for taxpayers *with a mirrored account*, they were unsure if they could disclose the following information about the other spouse for spouses who are now divorced or separated: new address, new name, telephone number, employment, income, or assets.
- Two of the 23 employees responded that, for taxpayers *without a mirrored account*, they were unsure if they could disclose the income level of the other spouse at which a CNC module would be reactivated.

¹⁹ IRM 21.6.8.3(3) (May 20, 2022).

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

- Six of the 23 employees responded that, for taxpayers *with a mirrored account*, they were unsure if they could disclose the income level of the other spouse at which a CNC module would be reactivated.

When employees are unsure of the appropriate disclosure, they may choose not to risk inappropriate disclosure under I.R.C. § 6103 and potential discipline, even when the taxpayer is entitled to the information. When we asked employees during our interviews about where they seek assistance or guidance regarding disclosure, the majority stated they would refer to the IRM or their manager. Therefore, if a manager is providing inaccurate information to their employees regarding the disclosure of collection activity of joint filers, there will be a consistent issue of improper disclosure. Employees, as well as managers, need additional guidance and training on joint return disclosure requirements so they can provide appropriate responses when asked about collection activity on jointly filed returns of divorced or separated joint filers, including situations where the account is mirrored.

Based on our results from case history file reviews and interviews, employees and managers are providing inconsistent responses to taxpayer requests for collection information on their jointly filed returns when the taxpayers are divorced or separated. RRA 98 § 1204(b) requires IRS employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. This provision of the law was enacted to provide assurance that employee performance is focused on providing quality service to taxpayers. One example of performance that meets the fair and equitable treatment standard is to conduct “oral and written communications with taxpayers that are professional, courteous, and *accurately state the facts.*”²⁰ To assist its employees in meeting this standard, the IRS should consistently provide periodic training for all IRS personnel that addresses collection activity inquiries.

In addition to requiring the IRS to provide collection information to joint filers, RRA 98 also requires all IRS employees, including IRS Headquarters employees who set policies for IRS employees to follow, to annually sign a statement that is a part of their annual performance plan in which they agree to treat taxpayers fairly and equitably.²¹ The standard requires employees to administer the tax laws fairly and equitably; protect all taxpayers’ rights; and treat each taxpayer ethically with honesty, integrity, and respect. Employees receive annual training on taxpayer rights as part of the IRS’s obligation under RRA 98 § 1204(b). TIGTA has reported annually on significant problems with taxpayers who file jointly not receiving the collection information to which they are entitled, and the IRS has not always agreed to take steps to help clarify its employees’ misunderstandings about what the law requires.

The Chief, Taxpayer Services, should:

Recommendation 1: Update IRM 21.1.3, *Operational Guidelines Overview*, and IRM 21.3.4, *Field Assistance*, to include the information shown in IRM 21.6.8.3, *Disclosing Taxpayer Data*, as it provides examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e) requirements and defines mirrored accounts.

²⁰ IRM 6.430.2, Exhibit 6.430.2-1 (Oct. 28, 2011).

²¹ RRA § 1204(b) Pub. L. No. 105-206, 112 Stat. 685 (and codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

Management's Response: IRS management agreed with this recommendation, stating that they will update IRM 21.1.3, *Operational Guidelines Overview*, to include the information shown in IRM 21.6.8.3, *Disclosing Taxpayer Data*, and will update IRM 21.3.4, *Field Assistance*, to include a reference to IRM 21.6.8, *Split Spousal Assessment*.

Recommendation 2: Update IRM 11.3.2, *Disclosure to Persons with a Material Interest*, to include a reference to the IRMs for AM and FA that provide examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e).

Management's Response: IRS management agreed with this recommendation, stating that they will update IRM 11.3.2, *Disclosure to Persons with a Material Interest*, to include high level cross references to overarching IRMs for AM and FA.

Recommendation 3: Provide refresher training on I.R.C. §§ 6103(e)(7) and (e)(8) to all contact representatives in the AM and to all ITASs in the FA. This training should include information about the usefulness and availability of the Disclosure Office and Disclosure Help Desk.

Management's Response: IRS management agreed with this recommendation, stating that they will add training on the I.R.C. §§ 6103(e)(7) and (e)(8) to the critical filing season readiness training curriculum for all AM employees and to the administrative curriculum for all employees that have contact with taxpayers in FA.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS was complying with the provisions of I.R.C. § 6103(e)(8) as related to the disclosure of collection activities with respect to joint filers. To accomplish our objective, we:

- Determined whether any systems or processes had been implemented or modified since our last review, dated September 2023, to track taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8) or joint filer requests, and the IRS's responses for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- Selected and interviewed a judgmental sample of 23 W&I Division employees and seven of their managers to determine how they responded to questions about collection activity on accounts of taxpayers who jointly filed a return but are no longer married or no longer reside in the same household of the other taxpayer on the return.¹ The judgmental sample of 23 employees consisted of 13 contact representatives that were selected out of a population of 16,811 contact representatives and 10 ITASs that were selected from a population of 1,237 ITASs. We judgmentally selected four managers of the 13 selected contact representatives and three managers of the 10 selected ITASs. A judgmental sample was used to ensure that selected employees and managers represented diverse locations.
- Identified potential joint filer disclosures related to W&I Division taxpayer contacts from April 1, 2022, through March 31, 2023, and reviewed all potential results to determine if employees' responses to these contacts were appropriate based on the I.R.C. §§ 6103(e)(7) and (8).
- Reviewed the IRS's compliance with the joint return disclosure requirements by requesting assistance from TIGTA's Applied Research and Technology Data Analytics group to identify a potential population of divorced or separated taxpayers with disclosure-related contacts from April 1, 2022, through March 31, 2023. The group identified 197 AM history files and 407 FA history files in the AMS that potentially related to taxpayer requests for collection activity information on jointly filed returns for which the taxpayers were now either divorced or separated.

Performance of This Review

This review was performed with information obtained from the Chief, Taxpayer Services, located in Atlanta, Georgia, during the period September 2023 through June 2024. 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.

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

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Phyllis Heald-London, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Robert Jenness, Director; Tina Fitzsimmons, Audit Manager; Thomas Lipski, Lead Auditor; Wendy Wu, Auditor; and Kevin B. Neilsen, Information Technology Specialist (Data Analytics).

Data Validation Methodology

The Applied Research and Technology Data Analyst performed data analytics using an extract from TIGTA's Data Center Warehouse AMS dataset. This dataset was used to identify a potential population of divorced or separated taxpayers with disclosure-related contacts during the period of April 1, 2022, to March 31, 2023. We evaluated the results of the data analytics by performing electronic data testing for missing data, outliers, duplicates, or obvious errors. We verified the completeness of the data by reviewing the date fields of the narratives, which all fell within the requested time frame. There were 197 AM and 407 FA case histories; we reviewed both populations of case histories and verified the accuracy of all case history data as we performed our case history review. We determined that the data were sufficiently reliable for the purpose of this audit.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: documented procedures pertaining to requests under I.R.C. § 6103(e)(8). We evaluated these controls by reviewing W&I Division AMS history files and conducting interviews with W&I Division personnel who receive these requests.

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential; 16 divorced or separated taxpayers or their representatives were not provided with information related to the collection activity on the taxpayers' joint returns (see Recommendations 1 through 3).

Methodology Used to Measure the Reported Benefit:

TIGTA's Applied Research and Technology Data Analytics group identified a potential population of divorced or separated taxpayers with disclosure-related contacts during April 1, 2022, through March 31, 2023. The group identified 197 W&I Division AM history files and 407 FA history files in the AMS that potentially related to taxpayer requests for collection activity information on jointly filed returns in which the taxpayers were either divorced or separated. We reviewed these case histories to identify divorced or separated taxpayers requesting information regarding a joint tax liability. We evaluated 111 AM and 140 FA case histories to identify the first 50 case histories from each population that met these criteria. From these, we identified 16 unique taxpayers whose requests for collection information on their joint returns were denied. These taxpayers or their representatives were potentially burdened with additional delays in resolving their respective joint tax return matter.

Type and Value of Outcome Measure:

- Taxpayer Privacy and Security – Potential; four divorced or separated taxpayers were provided with information not related to the collection activity on their joint returns (see Recommendations 1 through 3).

Methodology Used to Measure the Reported Benefit:

TIGTA's Applied Research and Technology Data Analytics group identified a potential population of divorced or separated taxpayers with disclosure-related contacts during April 1, 2022, through March 31, 2023. The group identified 197 W&I Division AM history files and 407 FA history files in the AMS that potentially related to taxpayer requests for collection activity information on jointly filed returns, in which the taxpayers were either divorced or separated. We reviewed these case histories to identify divorced or separated taxpayers requesting information regarding a joint tax liability. We evaluated 111 AM and 140 FA case histories to identify the first 50 case histories from each population that met these criteria. From these, we identified four unique taxpayers whose information was disclosed, which violated information allowed to be disclosed under I.R.C. § 6103(e)(8). These taxpayers potentially had their right to privacy violated with the disclosure of prohibited information.

Management's Response to the Draft Report



CHIEF
TAXPAYER SERVICES

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

August 21, 2024

MEMORANDUM FOR DANNY R. VERNEUILLE
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin 
Chief, Taxpayer Services Division

Digitally signed by Kenneth C.
Corbin
Date: 2024.08.23 09:31:48 -0400

SUBJECT: Draft Audit Report – Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit No.: 2024300004)

Thank you for the opportunity to review and provide comments on the subject draft report. Internal Revenue Code § 6103 provides that tax information shall remain confidential, and disclosure of such information to others shall be limited to those exceptions authorized under § 6103. With respect to individuals filing joint tax returns, both individuals have the right to be informed of any actions taken by the IRS regarding enforcement activities, including the collection of amounts due. These rights remain in effect even if the individuals are no longer married or living in the same household. If collection activities are initiated and directed at only one of the individuals, the other individual is still allowed to receive general information about whether collection of the debt has been attempted, the nature of the collection activities, and the amount, if any, that has been collected.

We recognize the challenges that taxpayers who are divorced or separated can face with respect to jointly owed tax liabilities. We are committed to assisting them by providing information we are authorized to disclose regarding our efforts to collect the delinquent tax.

The results of the review revealed that some employees in Accounts Management and Field Assistance could benefit from additional reminders on joint disclosure requirements. We will implement measures to prevent occurrences of inadvertent disclosure. These measures include modifying our training plans to add additional training, ensuring our employees are aware of what information must and cannot be shared, per IRC §6103. We also plan to update the Internal Revenue Manual to strengthen existing guidance and to link users to precise guidance on authorized disclosures for divorced or separated joint filers.

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

2

Our responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact, Joseph Dianto, Director, Customer Account Services, at 470-639-3504.

Attachment

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

Attachment

Recommendations

The Chief, Taxpayer Services, should:

RECOMMENDATION 1

Update IRM 21.1.3, *Accounts Management and Compliance Services Operations-Operational Guidelines Overview*, and IRM 21.3.4, *Taxpayer Contacts-Field Assistance*, to include the information shown in IRM 21.6.8.3, *Disclosing Taxpayer Data*, as it provides examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e) requirements and defines mirrored accounts.

CORRECTIVE ACTION #1

We agree. We will update Internal Revenue Manual (IRM) 21.1.3, *Operational Guidelines Overview*, to include the information shown in IRM 21.6.8.3, *Disclosing Taxpayer Data*.

CORRECTIVE ACTION #2

We agree. We will update IRM 21.3.4, *Field Assistance*, to include a reference to IRM 21.6.8, *Split Spousal Assessment*.

IMPLEMENTATION DATES

December 15, 2024 – Corrective Action #1

October 15, 2024 – Corrective Action #2

RESPONSIBLE OFFICIALS

Director, Accounts Management, Customer Account Services, Taxpayer Services Division - Corrective Action #1

Director, Field Assistance, Customer Assistance, Relationships and Education, Taxpayer Services Division - Corrective Action #2

CORRECTIVE ACTION MONITORING PLAN

We will monitor these corrective actions as part of our internal management control system.

RECOMMENDATION 2

Update IRM 11.3.2, *Disclosure to Persons with a Material Interest*, to include a reference to the IRMs for AM and FA that provide examples of situations in which a contact representative or an ITAS can and cannot disclose taxpayer information pursuant to I.R.C. § 6103(e).

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

2

CORRECTIVE ACTION

We will update IRM 11.3.2, *Disclosure to Persons with a Material Interest*, to include high level cross references to the overarching IRMs for Accounts Management and Field Assistance.

IMPLEMENTATION DATE

March 15, 2025

RESPONSIBLE OFFICIAL

Chief Privacy Officer (Privacy, Governmental Liaison & Disclosure); Governmental Liaison, Disclosure & Safeguards, Director (Disclosure)

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3

Provide refresher training on I.R.C. §§ 6103(e)(7) and (e)(8) to all contact representatives in the AM and to all ITASs in the FA. This training should include information about the usefulness and availability of the Disclosure Office and Disclosure Help Desk.

CORRECTIVE ACTION #1

We agree. We will add training on Internal Revenue Code (IRC) §§ 6103(e)(7) and (e)(8) to the critical filing season readiness training curriculum, required for all Accounts Management employees.

CORRECTIVE ACTION #2

We agree. We will add training on IRC §§ 6103(e)(7) and (e)(8) to the Individual Taxpayer Advisory Specialists (ITAS) and Initial Assistance Representatives (IAR) administrative curriculum. This curriculum will be taken by all employees that have contact with taxpayers.

IMPLEMENTATION DATES

February 15, 2025 – Corrective Action #1

December 15, 2024 – Corrective Action #2

RESPONSIBLE OFFICIALS

Director, Accounts Management, Customer Account Services, Taxpayer Services Division – Corrective Action #1

Director, Field Assistance, Customer Assistance, Relationships and Education, Taxpayer Services Division – Corrective Action #2

**Fiscal Year 2024 Mandatory Review of
Disclosure of Collection Activity With Respect to Joint Returns**

3

CORRECTIVE ACTION MONITORING PLAN

We will monitor these corrective actions as part of our internal management control system.

Abbreviations

AM	Accounts Management
AMS	Accounts Management System
CNC	Currently Not Collectible
FA	Field Assistance
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ITAS	Individual Taxpayer Advisory Specialist
RRA 98	Restructuring and Reform Act of 1998
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration
W&I	Wage and Investment



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

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

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