



*Fiscal Year 2008 Statutory Audit of  
Compliance With Legal Guidelines  
Prohibiting the Use of Illegal Tax Protester  
and Similar Designations*

**May 23, 2008**

**Reference Number: 2008-40-124**

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.

**Redaction Legend:**

1 = Tax Return/Return Information



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

May 23, 2008

**MEMORANDUM FOR** DEPUTY COMMISSIONER FOR SERVICES AND  
ENFORCEMENT  
DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

*Michael R. Phillips*

**FROM:** Michael R. Phillips  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2008 Statutory Audit of Compliance  
With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and  
Similar Designations (Audit # 200840004)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> Section (§) 3707 and its own internal guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations.

*Impact on the Taxpayer*

Congress enacted RRA 98 § 3707 to prohibit the IRS from labeling taxpayers as Illegal Tax Protesters or any similar designations. Overall, the IRS has eliminated most uses of this and similar designations. However, in some instances, IRS employees did refer to taxpayers by these designations in case narratives, which could stigmatize taxpayers and cause employee bias in future contacts with these taxpayers.

*Synopsis*

Prior to enactment of the RRA 98, taxpayers could be designated as Illegal Tax Protesters if their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. Once taxpayers' accounts were coded with Illegal Tax Protester indicators, certain tax enforcement actions were

---

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



## *Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

accelerated. The designation was also intended to alert employees to be cautious so they would not be drawn into confrontations with taxpayers. The RRA 98 prohibits the IRS from using Illegal Tax Protester or any similar designations. The Treasury Inspector General for Tax Administration is required to annually evaluate IRS compliance with this prohibition.<sup>2</sup>

The IRS has not reintroduced past Illegal Tax Protester codes on the Master File,<sup>3</sup> and formerly coded taxpayer accounts have not been assigned similar Master File designations. In addition, the Internal Revenue Manual<sup>4</sup> and current publications do not have any Illegal Tax Protester references. However, there were some designations identified in the case narratives. In 430 instances out of approximately 65.2 million records and cases, IRS employees improperly referred to taxpayers as Illegal Tax Protesters or similar designations.

***In some instances, IRS employees referred to taxpayers as Illegal Tax Protesters or similar designations in case narratives.***

IRS management disagrees that employee use of Illegal Tax Protester or any similar designation in a case narrative is a potential violation of the law. We continue to believe that the use of these designations in case narratives might stigmatize taxpayers and cause employee bias in future contacts with these taxpayers. Electronic case narratives are available to other IRS employees for future reference and might affect the opinions and actions of employees working the taxpayers' cases.

Notwithstanding their disagreement with our interpretation of the law, IRS management advised us that they have taken a conservative approach by implementing a policy prohibiting employees from using Illegal Tax Protester or any similar designation. In August 2007, management issued a memorandum to all employees reminding them of this policy. Through IRS management's continued efforts, the total number of improper designations made by IRS employees has decreased.

---

<sup>2</sup> Internal Revenue Code § 7803(d)(1)(A)(v) (2000 Suppl. 4).

<sup>3</sup> A database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

<sup>4</sup> A manual containing the IRS' internal guidelines.



*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

*Response*

We made no recommendations in this report. In their response to the draft report, IRS management stated their belief that the use of Illegal Tax Protestor or similar designations does not affect the way in which the IRS deals with taxpayers who disapprove of the tax system. Because these taxpayers are treated in the same manner and given the same rights as any other taxpayer, the IRS does not concur with our described benefit. Management's complete response to the draft report is included as Appendix V.

Please contact me at (202) 622-6510 if you have questions or Michael E. McKenney, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 622-5916.



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations*

---

*Table of Contents*

**Background** .....Page 1

**Results of Review** .....Page 3

    Illegal Tax Protester Codes Were Not Used on the Master File.....Page 3

    Internal Revenue Service Publications Do Not Contain Illegal  
    Tax Protester References .....Page 3

    Illegal Tax Protester References Have Been Removed From the  
    Internal Revenue Manual.....Page 4

    In Some Instances, Employees Used Illegal Tax Protester or  
    Similar Designations in Case Narratives .....Page 4

    Alternative Methods That Avoid the Need for Illegal Tax Protester  
    Designations Have Been Established to Address Tax Compliance  
    Issues.....Page 7

**Appendices**

    Appendix I – Detailed Objective, Scope, and Methodology .....Page 9

    Appendix II – Major Contributors to This Report.....Page 12

    Appendix III – Report Distribution List .....Page 13

    Appendix IV – Outcome Measure .....Page 14

    Appendix V – Management’s Response to the Draft Report .....Page 16



*Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations*

---

*Abbreviations*

IRS

Internal Revenue Service

RRA 98

IRS Restructuring and Reform Act of 1998



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

## *Background*

Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> Section (§) 3707 prohibits the IRS from using Illegal Tax Protester or any similar designations. In addition, the law requires the removal of all existing Illegal Tax Protester codes from the Master File<sup>2</sup> and instructs IRS employees to disregard any such designation not located on the Individual Master File.<sup>3</sup>

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

Congress was concerned that some taxpayers were being permanently labeled and stigmatized by the Illegal Tax Protester designation. There were many instances of taxpayers who subsequently complied with the tax laws but continued to be labeled as Illegal Tax Protesters. The concern was that this label could bias IRS employees and result in unfair treatment of the taxpayer.

Internal Revenue Code § 7803(d)(1)(A)(v) (2000 Suppl. 4) requires the Treasury Inspector General for Tax Administration to annually evaluate IRS compliance with the prohibition against using Illegal Tax Protester or any similar designations. This is our tenth review since Fiscal Year 1999. These reviews have identified areas for improvement to help the IRS comply with the Illegal Tax Protester designation prohibition.

***The Treasury Inspector General for Tax Administration is required to annually evaluate IRS compliance with the prohibition against using Illegal Tax Protester or any similar designations.***

---

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

<sup>2</sup> A database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

<sup>3</sup> A database that maintains transactions or records of individual tax accounts.



*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

This review was performed in the Criminal Investigation Division, the Office of the National Taxpayer Advocate, the Office of Appeals, and the Office of Chief Counsel in Washington, D.C.; the Small Business/Self-Employed Division in New Carrollton, Maryland; and the Wage and Investment Division in Atlanta, Georgia, during the period July 2007 through February 2008. 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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.





## *Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

### *Results of Review*

#### ***Illegal Tax Protester Codes Were Not Used on the Master File***

Prior to enactment of the RRA 98, the IRS used Illegal Tax Protester indicators on the Master File to accelerate collection activity for taxpayers who were delinquent in filing tax returns or paying their taxes. These indicators were also intended to alert employees that problems might be encountered when dealing with nonfilers and delinquent taxpayers.

Congress was concerned about use of the Illegal Tax Protester designation because:

- Taxpayers were labeled as Illegal Tax Protesters without regard to their filing obligations or compliance.
- Illegal Tax Protester indicators were not always reversed when taxpayers became compliant with their tax obligations.

RRA 98 § 3707 required the IRS to remove the existing Illegal Tax Protester designations from taxpayers' accounts on the Master File beginning January 1, 1999.

In prior reviews, we reported that the IRS had removed these designation codes from the Master File as required by the law. Based on our analysis of approximately 1.1 million taxpayer accounts coded for accelerated collection activity, the IRS has not reintroduced Illegal Tax Protester codes on the Master File. The law also prohibits using any designation similar to Illegal Tax Protester. We matched approximately 57,000 taxpayer accounts formerly coded as Illegal Tax Protesters to the Master File and confirmed that the IRS had not input any other type of similar designation on these accounts.

#### ***Internal Revenue Service Publications Do Not Contain Illegal Tax Protester References***

To help promote compliance with RRA 98 § 3707, IRS management issued directives for employees to update various publications to eliminate references to Illegal Tax Protester terminology and programs. Our reviews prior to Fiscal Year 2002 identified several publications that contained Illegal Tax Protester references. When notified of the problem,





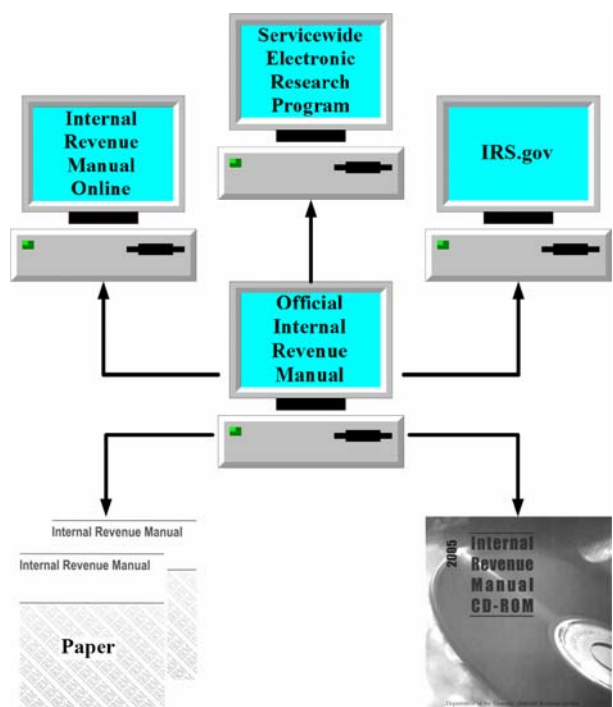
## *Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

the IRS either revised the publications or labeled them as being obsolete. Our review of available publications on the Servicewide Electronic Research Program,<sup>4</sup> IRS public Internet web site (IRS.gov), Electronic Publishing web site, and 2007 Federal Tax Products CD-ROM did not identify any current Illegal Tax Protester references. By eliminating these references from its forms, documents, letters, and training materials, the IRS avoids the implication that the use of this terminology is permissible.

### ***Illegal Tax Protester References Have Been Removed From the Internal Revenue Manual***

In each of our nine prior reviews, we identified Illegal Tax Protester references in various formats of the Internal Revenue Manual.<sup>5</sup> The Official Internal Revenue Manual is maintained on the Electronic Publishing web site. However, it is also found electronically on the Internal Revenue Manual online, the Servicewide Electronic Research Program, IRS.gov, and CD-ROM, as well as in paper format. The graphic to the right shows the relationship between the Official Internal Revenue Manual and the various formats available to IRS employees.

During our Fiscal Year 2008 review, we verified that no Illegal Tax Protester references existed in the Internal Revenue Manual. Removing all Illegal Tax Protester references from the Internal Revenue Manual will help avoid any inappropriate implication to taxpayers.



### ***In Some Instances, Employees Used Illegal Tax Protester or Similar Designations in Case Narratives***

Out of approximately 65.2 million records and cases, we found 430 instances in which employees had labeled taxpayers as “Tax Protester,” “Illegal Tax Protester,” “Constitutionally

<sup>4</sup> An electronic researching tool containing many former paper research applications (e.g., publications, the Internal Revenue Manual, the Probe and Response Guide).

<sup>5</sup> A manual containing the IRS’ internal guidelines.



---

***Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations***

---

Challenged,” or other similar designations in case narratives on the following computer systems during the period October 2006 through September 2007.

- Appeals Centralized Database System:<sup>6</sup> A review of approximately 2.4 million open/closed Appeals function narrative comment records identified 68 cases in which 56 employees used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.
- Automated Collection System:<sup>7</sup> A review of approximately 2.4 million open cases identified <sup>1</sup> used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.
- Criminal Investigation Management Information System:<sup>8</sup> A review of approximately 7,000 open/closed cases identified 3 cases in which 3 employees used a similar designation when referring to specific taxpayers in the case narratives.
- Desktop Integration:<sup>9</sup> A review of approximately 59.2 million records identified 183 cases in which 134 employees used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.
- Integrated Collection System:<sup>10</sup> A review of approximately 1.1 million open cases identified 167 cases in which 147 employees used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.
- Taxpayer Advocate Management Information System:<sup>11</sup> A review of approximately 52,000 open cases identified 7 cases in which 7 employees used Illegal Tax Protester or a similar designation when referring to specific taxpayers in the case narratives.

We believe that these designations are prohibited by law. Figure 1 contains the number of Illegal Tax Protester or similar designations identified in IRS computer system case narratives during our Fiscal Years 2007 and 2008 reviews.

---

<sup>6</sup> A computerized system used to track case receipts, record case time, document case actions, and monitor the progress of Appeals function workload.

<sup>7</sup> A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

<sup>8</sup> A computerized system used to track the status and progress of criminal investigations.

<sup>9</sup> Provides employees access to multiple IRS systems through their computers and allows for inventory management, case delivery, history narratives, print-to-fax capabilities for sending information to taxpayers, and electronic referral generation.

<sup>10</sup> A computerized system used by Collection function employees to report taxpayer case time and activity.

<sup>11</sup> An electronic database and inventory control system used by Taxpayer Advocate Service employees.



**Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations**

**Figure 1: Illegal Tax Protester and Similar Designations in Case Narratives**

Computer System	Fiscal Year 2007 Review			Fiscal Year 2008 Review		
	Employees Involved	Protester Designation Used	Similar Designation Used	Employees Involved	Protester Designation Used	Similar Designation Used
Appeals Centralized Database System <sup>12</sup>	N/A	N/A	N/A	56	27	41
Automated Collection System	4	1 [REDACTED]				
Criminal Investigation Management Information System <sup>13</sup>	N/A	N/A	N/A	3	0	3
Desktop Integration	171	225	53	134	150	33
Integrated Collection System	251	132	160	147	70	97
Taxpayer Advocate Management Information System	4	1 [REDACTED]		7	4	3

Source: Case narratives found on various IRS computer systems and the Treasury Inspector General for Tax Administration report entitled *Fiscal Year 2007 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Reference Number 2007-40-112, dated July 3, 2007).  
 N/A = not applicable.

<sup>12</sup> We did not analyze the Appeals Centralized Database System during our Fiscal Year 2007 review.

<sup>13</sup> We did not analyze the Criminal Investigation Management Information System during our Fiscal Year 2007 review.



---

**Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations**

---

We also identified 105 case narratives in which employees made references about the taxpayers' actions <sup>1</sup>

<sup>1</sup> [REDACTED] We agree with the IRS that merely making references to a taxpayer's actions does not constitute a designation prohibited by statute. However, we are concerned that these references could become—or be considered—permanent labels that could subsequently stigmatize taxpayers in future contacts with the IRS. We did not include any instances in which employees were only documenting statements made by a taxpayer and/or his or her representative because quoting a taxpayer's self-designation as an Illegal Tax Protester is not prohibited by the law.

The statute states that officers and employees of the IRS shall not designate taxpayers as Illegal Tax Protesters or any similar designations. It further specifies that existing designations in the Master File must be removed and any other designations made before the effective date of the statute, such as those on paper records that have been archived, must be disregarded. *Senate Committee on Finance Report 105-174* (dated April 22, 1998), related to the RRA 98 § 3707 provision, stated that the Committee was concerned that taxpayers might be stigmatized by a designation as an "Illegal Tax Protester." Based upon the language of the statute and the Senate Committee Report, we believe that IRS officers and employees should not label taxpayers as Illegal Tax Protesters or similar designations in any records, which include paper and electronic case files. Officers and employees should not designate taxpayers as such because a designation alone contains a negative connotation and appears to label the taxpayer.

IRS management disagrees that employee use of Illegal Tax Protester or similar designations in a case narrative is a potential violation of the law. We continue to believe that use of these labels in case narratives might stigmatize taxpayers and cause employee bias in future contacts with the taxpayers. Electronic case narratives are available to other IRS employees for future reference and might affect the opinions and actions of employees working the taxpayers' cases.

Even though IRS management continues to disagree with our interpretation of the law, they have taken a conservative approach by implementing a policy that prohibits employees from using Illegal Tax Protester or any similar designation. In August 2007, IRS management issued a memorandum to all employees reminding them of this policy. Through management's continued efforts, the total number of improper designations made by IRS employees has decreased.

***Alternative Methods That Avoid the Need for Illegal Tax Protester Designations Have Been Established to Address Tax Compliance Issues***

IRS tax compliance operations have not been significantly affected by the prohibition against using Illegal Tax Protester or similar designations because alternative programs exist to address issues previously handled by the Illegal Tax Protester Program. These include:



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

- The Frivolous Return Program, which handles taxpayers who file tax returns based on some type of frivolous argument that justifies payment of little or no income tax. This would include filing a tax return claiming no income because paying taxes is voluntary, claiming to be a citizen of a State but not a citizen of the United States, etc.
- The Nonfiler Program, which handles taxpayers who fail to file their required tax returns.
- The Potentially Dangerous Taxpayer/Caution Upon Contact Program, which handles taxpayers who have assaulted and/or threatened IRS employees.

Each of these Programs is set up to address various issues IRS employees might encounter when dealing with taxpayers protesting the legality of paying their income taxes. Unlike the former Illegal Tax Protester Program, each current Program addresses a specific taxpayer behavior. In addition, taxpayers are not assigned to these individual Programs on a permanent basis, as was the case in the Illegal Tax Protester Program.

None of our prior reviews have identified instances in which the Illegal Tax Protester indicator was needed on a taxpayer's account to either accelerate tax enforcement actions and/or alert IRS employees to be cautious when dealing with the taxpayer. In addition, management has advised us that prohibiting use of the Illegal Tax Protester designation has had no negative impact on collection or examination activities.

**Management's Response:** We made no recommendations in this report. However, IRS management believes that use of Illegal Tax Protestor or similar designations does not affect the way in which the IRS deals with taxpayers who disapprove of the tax system. Because these taxpayers are treated in the same manner and given the same rights as any other taxpayer, the IRS does not concur with our described benefit.



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

## **Appendix I**

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

The objective of this review was to determine whether the IRS complied with RRA 98<sup>1</sup> § 3707 and its own internal guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters or any similar designations. The Treasury Inspector General for Tax Administration is required to annually evaluate compliance with the prohibition against using Illegal Tax Protester or any similar designations.<sup>2</sup> Unless otherwise noted, our limited tests of the reliability of data obtained from various IRS systems did not identify any errors. We tested the reliability of the data by scanning the data received for blank, incomplete, illogical, or improper data. In addition, we traced a judgmental sample for each data set to the source IRS files to ensure accuracy. We did not perform any testing of internal controls over the systems that were the sources of our data. To accomplish the objective, we:

- I. Determined if the Illegal Tax Protester coding on the Master File<sup>3</sup> was removed by reviewing all tax accounts coded for accelerated collection activity as of September 2007 on the Business Master File<sup>4</sup> and Individual Master File.<sup>5</sup> We analyzed 1,121,322 Master File records containing a Transaction Code 148 on the account.

We also matched our historic computer extract of approximately 57,000 taxpayers designated as Illegal Tax Protesters before the RRA 98 was enacted to our records with a Transaction Code 148 to determine if any new common codes were being used to classify the taxpayers as Illegal Tax Protesters.

- II. Determined if the Internal Revenue Manual<sup>6</sup> contained Illegal Tax Protester or any similar designations by performing key word searches of the IRS Electronic Publishing web site, the Internal Revenue Manual online, the Servicewide Electronic Research Program,<sup>7</sup> IRS.gov, CD-ROM, and the paper Internal Revenue Manual.

---

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

<sup>2</sup> Internal Revenue Code § 7803(d)(1)(A)(v) (2000 Suppl. 4).

<sup>3</sup> A database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

<sup>4</sup> A database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.

<sup>5</sup> A database that maintains transactions or records of individual tax accounts.

<sup>6</sup> A manual containing the IRS' internal guidelines.

<sup>7</sup> An electronic researching tool containing many former paper research applications (e.g., publications, the Internal Revenue Manual, the Probe and Response Guide).



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

- III. Determined if IRS publications contained Illegal Tax Protester or any similar designations by performing key word searches of the Servicewide Electronic Research Program, IRS.gov, and the IRS Electronic Publishing web site in August 2007 and the IRS 2007 Federal Tax Products CD-ROM in December 2007.
- IV. Determined if employees were using Illegal Tax Protester or any similar designations within taxpayer case narratives on the Integrated Collection System<sup>8</sup> by securing a copy of the database and analyzing 1,071,323 cases open as of September 2007 with history action dates between October 2006 and September 2007.
- V. Determined if employees were using Illegal Tax Protester or any similar designations within taxpayer case narratives on the Automated Collection System<sup>9</sup> by securing a copy of the database<sup>10</sup> and analyzing 2,424,977 cases open as of September 2007 with history action dates between October 2006 and September 2007.
- VI. Determined if employees were using Illegal Tax Protester or any similar designations within taxpayer case narratives on the Taxpayer Advocate Management Information System<sup>11</sup> by securing a copy of the database as of September 2007 and analyzing 52,275 open cases with activity between October 2006 and September 2007.
- VII. Determined if employees were using Illegal Tax Protester or any similar designations within the taxpayer case narratives on Desktop Integration<sup>12</sup> by securing a copy of the database as of September 2007 and analyzing 59,198,718 records with activity between October 2006 and September 2007.
- VIII. Determined if employees were using Illegal Tax Protester or any similar designations within taxpayer case narratives on the Appeals Centralized Database System<sup>13</sup> by securing a copy of the database as of September 2007 and analyzing 2,415,457 open/closed Appeals function narrative comment records with activity between October 2006 and September 2007.

---

<sup>8</sup> A system used by Collection function employees to report taxpayer case time and activity.

<sup>9</sup> A telephone contact system through which telephone assistors collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

<sup>10</sup> The Automated Collection System did not always contain employee identifying information from which we could determine the number of employees using Illegal Tax Protester or a similar designation. We assumed that each comment was made by a different employee.

<sup>11</sup> An electronic database and inventory control system used by Taxpayer Advocate Service employees.

<sup>12</sup> Provides employees access to multiple IRS systems through their computers and allows for inventory management, case delivery, history narratives, print-to-fax capabilities for sending information to taxpayers, and electronic referral generation.

<sup>13</sup> A computerized system used to track case receipts, record case time, document case actions, and monitor the progress of Appeals function workload.





---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

IX. Determined if employees were using Illegal Tax Protester or any similar designations within the taxpayer case narratives on the Criminal Investigation Management Information System<sup>14</sup> by analyzing 6,975 Criminal Investigation Division cases opened and/or closed between October 2006 and September 2007.

Due to concerns with providing us access to sensitive grand jury information, the IRS provided us with a manually edited extract limited to Criminal Investigation Division cases from the Criminal Investigation Management Information System. While our very limited validation tests and audit results seem reasonable based on prior experience with this database, we are required by generally accepted government auditing standards to disclose this limitation in the scope of our work.

X. Determined if the IRS is using any Frivolous Return Program<sup>15</sup> codes as replacements for Illegal Tax Protester designations by reviewing guidance provided for the Frivolous Return Program and interviewing its Program Coordinator.

XI. Determined if the IRS Nonfiler Program<sup>16</sup> is in compliance with the provisions established by RRA 98 § 3707(b) by reviewing guidance provided for the Nonfiler Program and interviewing its Program Coordinator.

XII. Determined if there is any relationship between Illegal Tax Protester designations and Potentially Dangerous Taxpayer/Caution Upon Contact indicator use on the Master File by reviewing guidance provided for the Potentially Dangerous Taxpayer/Caution Upon Contact Program<sup>17</sup> and interviewing its Program Coordinator.

---

<sup>14</sup> A computerized system used to track the status and progress of criminal investigations.

<sup>15</sup> The Frivolous Return Program handles taxpayers who file tax returns based on some type of frivolous argument that justifies payment of little or no income tax. This would include filing a tax return claiming no income because paying taxes is voluntary, claiming to be a citizen of a State but not a citizen of the United States, etc.

<sup>16</sup> The Nonfiler Program handles taxpayers that fail to file their required tax returns.

<sup>17</sup> The Potentially Dangerous Taxpayer/Caution Upon Contact Program handles taxpayers that have assaulted and/or threatened IRS employees.



*Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations*

---

**Appendix II**

*Major Contributors to This Report*

Michael E. McKenney, Assistant Inspector General for Audit (Wage and Investment Income Programs)  
Marybeth H. Schumann, Director  
Bryce Kisler, Audit Manager  
Alan Lund, Acting Audit Manager  
Craig Pelletier, Lead Auditor  
Tanya Adams, Senior Auditor  
David Hartman, Senior Auditor



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations*

---

**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Commissioner, Small Business/Self-Employed Division SE:S  
Commissioner, Wage and Investment Division SE:W  
Chief, Appeals AP  
Chief, Criminal Investigation SE:CI  
Chief Counsel CC  
National Taxpayer Advocate TA  
Chief Information Officer OS:CIO  
Director, Office of Research, Analysis, and Statistics RAS  
Director, Communications and Liaison, National Taxpayer Advocate TA:CL  
Director, Office of Servicewide Policy, Directives, and Electronic Research RAS:SPDER  
Director, Collection, Small Business/Self-Employed Division SE:S:C  
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division  
SE:S:CLD  
Director, Compliance, Wage and Investment Division SE:W:CP  
Director, Strategy and Finance, Wage and Investment Division SE:W:S  
Chief, Performance Improvement, Wage and Investment Division SE:W:S:PI  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaisons:  
GAO/TIGTA Liaison, Deputy Commissioner for Operations Support OS  
GAO/TIGTA Liaison, Deputy Commissioner for Services and Enforcement SE  
GAO/TIGTA Liaison, National Taxpayer Advocate TA  
GAO/TIGTA Liaison, Chief Information Officer OS:CIO:SM:PO  
Chief, GAO/TIGTA/Legislative Implementation Branch SE:S:CLD:PSP:GTL  
Senior Operations Advisor, Wage and Investment Division SE:W:S



---

***Fiscal Year 2008 Statutory Audit of Compliance With Legal  
Guidelines Prohibiting the Use of Illegal Tax Protester  
and Similar Designations***

---

**Appendix IV**

***Outcome Measure***

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. While no recommendations were made in this report, the Treasury Inspector General for Tax Administration has made prior recommendations that continue to provide benefits. This benefit will be incorporated into our Semiannual Report to Congress.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Actual; 427 taxpayers<sup>1</sup> potentially affected (see page 4).

**Methodology Used to Measure the Reported Benefit:**

We reviewed:

- From the Appeals Centralized Database System,<sup>2</sup> approximately 2.4 million open/closed Appeals function narrative comment records with history action dates between October 2006 and September 2007 and identified 68 taxpayer cases with narratives that contained Illegal Tax Protester or a similar designation.
- From the Automated Collection System,<sup>3</sup> approximately 2.4 million open cases with history action dates between October 2006 and September 2007 and identified [REDACTED] cases with narratives that contained Illegal Tax Protester or a similar designation.
- From the Criminal Investigation Management Information System,<sup>4</sup> approximately 7,000 opened and/or closed cases closed between October 2006 and September 2007 and identified 3 taxpayer cases with narratives that contained a similar designation.

---

<sup>1</sup> We identified 430 individual taxpayers labeled as an Illegal Tax Protester or a similar designation in a case narrative on an IRS computer system. Three of these taxpayers were labeled as an Illegal Tax Protester or similar designation in a case narrative on more than one IRS computer system.

<sup>2</sup> A computerized system used to track case receipts, record case time, document case actions, and monitor the progress of the Appeals function workload.

<sup>3</sup> A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

<sup>4</sup> A computerized system used to track the status and progress of criminal investigations.



---

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

---

- From Desktop Integration,<sup>5</sup> approximately 59.2 million records with history action dates between October 2006 and September 2007 and identified 183 taxpayer cases with narratives that contained Illegal Tax Protester or a similar designation.
- From the Integrated Collection System,<sup>6</sup> approximately 1.1 million open cases with history action dates between October 2006 and September 2007 and identified 167 taxpayer cases with narratives that contained Illegal Tax Protester or a similar designation.
- From the Taxpayer Advocate Management Information System,<sup>7</sup> approximately 52,000 open cases with history action dates between October 2006 and September 2007 and identified 7 taxpayer cases with narratives that contained Illegal Tax Protester or a similar designation.

---

<sup>5</sup> Provides employees access to multiple IRS systems through their computers and allows for inventory management, case delivery, history narratives, print-to-fax capabilities for sending information to taxpayers, and electronic referral generation.

<sup>6</sup> A system used by Collection function employees to report taxpayer case time and activity.

<sup>7</sup> An electronic database and inventory control system used by Taxpayer Advocate Service employees.



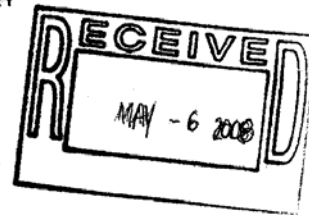
*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations*

**Appendix V**

*Management's Response to the Draft Report*



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



May 6, 2008

MEMORANDUM FOR MICHAEL R. PHILLIPS  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: *for* Kathy K. Petronchak  
Commissioner, Small Business/Self Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2008 Statutory Audit of Compliance with Legal Guidelines Prohibiting the Use of Illegal Tax Protestor and Similar Designations (Audit # 200840004)

I have reviewed your report and appreciate your acknowledgement of our ongoing efforts to comply with Section 3707 of the Internal Revenue Restructuring and Reform Act of 1998 (RRA '98). We have taken significant actions to comply with this section to ensure we protect the rights of all taxpayers, including those with constitutional or philosophical objections to our tax system. As you note in the report, we have removed all Illegal Tax Protestor (ITP) codes and references from the Master File, current publications and the Internal Revenue Manual (IRM).

While no recommendations were made in this report, we continue to discourage using such designations in our casework. Although the use of "ITP" or similar designations is contrary to our policy, there are no indications that these references have affected the way the IRS deals with taxpayers who disapprove of the tax system. Since these taxpayers are treated in the same manner and given the same rights as any other taxpayer, we cannot concur with your described benefits.

If you have any questions, please contact me at (202) 622-0600, or Fred Schindler, Director, Collection Policy, SB/SE Division, at (202) 283-7650.