

**The Internal Revenue Service Is Now Tracking  
Potential Fair Debt Collection Practices Act  
Violations, But May Not Always Be Properly  
Reporting Violations**

**December 1999**

**Reference Number: 2000-10-014**

**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

3d = Identifying information - Other Identifying Information of an Individual or Individuals



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

December 3, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

FROM: Pamela J. Gardiner *Pamela J. Gardiner*  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Internal Revenue Service Is Now  
Tracking Potential Fair Debt Collection Practices Act Violations,  
But May Not Always Be Properly Reporting Violations

This report presents the results of our statutory review of the Fair Debt Collection Practices Act (FDCPA). The overall objective of the review was to obtain information regarding any FDCPA violations resulting in employee administrative actions or money paid as part of a civil action against the United States Government.

In summary, we did not identify any civil actions where money has been paid out to taxpayers as a result of FDCPA violations. 1, 3d-----

1, 3d-----

1, 3d----- We were unable to make these determinations for two reasons. First, the Internal Revenue Service's (IRS) management information systems did not reflect FDCPA violations at the time of our review. Second, IRS management may not have always properly reported potential FDCPA violations. IRS management has since updated its management information systems to include FDCPA violation codes. Because of our limited scope of review on the second condition, we are not making any recommendations at this time to address the issue of the IRS not always reporting potential violations. However, we are planning to review this issue in our Fiscal Year 2000 audit and will make any warranted recommendations for corrective action at that time.

Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included in Appendix VII.

Copies of this report are also being sent to the IRS managers who are affected by the report. Please contact me at (202) 622-6510 if you have any questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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### **Executive Summary**

The Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692b (1996), included provisions that restrict various collection abuses and harassment in the private sector that did not apply to the United States (U.S.) Government. The Internal Revenue Service (IRS) Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (future references to this law will be to the law in general and will be referred to as RRA 98), however, requires the IRS to be at least as considerate to taxpayers as private creditors are required to be with their customers. In addition, taxpayers whose FDCPA rights are violated can now file a civil action under 26 U.S.C. § 7433 (1986) for damages against the U.S. Government. IRS reports show that approximately 2.5 million taxpayers were in active Collection status as of March 31, 1999. All of these taxpayers have the potential to have their FDCPA rights violated if IRS employees do not comply with the regulations.

Specifically, the RRA 98 added 26 U.S.C. § 6304 (1986), which states that, in general, IRS employees are not to communicate with taxpayers in connection with the collection of any unpaid tax:

- At unusual or inconvenient times.
- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS and the IRS knows or can easily obtain the representative's name and address.
- At the taxpayer's place of employment if the IRS knows or has reason to know that such communication is prohibited.
- With the intent to harass or abuse, including engaging in activity involving the use or threat of violence, use of profane language, telephone calls which ring continuously, or calls where the employee does not properly identify himself or herself.

The RRA 98 also added 26 U.S.C. § 7803(d)(1)(G) (1986) requiring the Treasury Inspector General for Tax Administration to provide information to the Congress regarding any administrative or civil actions with respect to violations of the FDCPA, including a summary of employee administrative actions taken against IRS employees and a summary of money paid as part of a civil action.

### **Results**

We did not identify any civil actions where money has been paid out to taxpayers as a result of FDCPA violations, based on our review of information provided by the

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Department of Justice’s Tax Division. 1, 3d-----  
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1, 3d-----at the time of our review, IRS management information systems did not reflect the number of FDCPA violations. Instead, IRS systems indirectly tracked violations based on issue codes that describe the inappropriate employee behavior, such as misuse of position/authority or unprofessional conduct. 1, 3d-----

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During our limited review of the IRS’ process for controlling and tracking potential FDCPA violations, we identified two areas needing IRS management attention. IRS management addressed the first area during our audit when we brought the issue to their attention.

- The IRS has upgraded existing management information systems to track FDCPA violations and identify monetary settlements to taxpayers.
- IRS management may not always properly report potential FDCPA violations.

**The Internal Revenue Service Has Upgraded Existing Management Information Systems to Track Fair Debt Collection Practices Act Violations and Identify Monetary Settlements to Taxpayers**

Taxpayer complaints about IRS employee conduct can be identified through several IRS functions and management information systems. If a taxpayer files a civil action or if IRS management determines that the taxpayer’s FDCPA rights were potentially violated, the complaint should be referred and tracked on one or both of the following IRS systems:

- Office of Labor Relations’ Automated Labor and Employee Relations Tracking System (ALERTS), which generally tracks employee behavior that may warrant IRS management administrative actions (suspension, removal, etc.).
- Office of Chief Counsel’s Counsel Automated System Environment (CASE), which is an inventory control system that tracks, for example, taxpayer civil actions or bankruptcies.

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At the time of our review, these systems did not have information that tracked FDCPA violations. However, IRS management had recognized the need to identify FDCPA violations and had already taken steps toward creating specific violation codes that would identify fair debt collection violations on the ALERTS. In addition, the IRS Office of Chief Counsel responded to an audit memorandum, stating that it had added a specific sub-category tracking code to the CASE that will identify FDCPA civil actions filed by taxpayers and track money paid to taxpayers who are successful in FDCPA civil actions against the IRS.

### **Internal Revenue Service Management May Not Always Properly Report Potential Fair Debt Collection Practices Act Violations**

IRS managers are responsible for understanding the provisions of the FDCPA to ensure taxpayer complaints of fair debt collection violations are properly reported to the appropriate IRS division. However, the IRS provided only limited training on the new RRA 98 provisions and did not provide specific guidance to employees in the Chief Operations Officer organization or in the Taxpayer Advocate's office on the FDCPA regulations and reporting process.

Our review of taxpayer complaints in two IRS districts indicated that all FDCPA violations may not have been reported; however, we do not know if this is happening nationwide. We identified three additional FDCPA violations that were handled internally instead of being referred to the Office of Labor Relations to be tracked. 1, 1, 3d-----

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1, 3d--- -- IRS management agreed that the complaints should have been reported to the Office of Labor Relations as potential FDCPA violations.

We also reviewed our own Office of Investigations' Investigations Management Information System to determine if there were any FDCPA violations. We identified seven open investigations (from six different districts in three separate regions) having FDCPA violation codes. However, while IRS management referred these allegations to us as potential IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 720 (1998) (referred to as RRA 98 § 1203) violations or as employee conduct issues, they did not properly identify them as potential FDCPA violations.

This report has no additional recommendations for corrective action beyond what the IRS had committed to during the audit. We will be performing a subsequent review during Fiscal Year 2000 to determine whether potential FDCPA violations are being properly reported nationwide.

## **The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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Management's Response: The IRS has upgraded the ALERTS by adding new issue codes that specifically identify FDCPA violations. Guidance has been sent to the Office of Labor Relations staff to ensure proper use of these codes. In addition, the Office of Chief Counsel is now entering case information regarding amounts paid out for violations of 26 U.S.C. § 6304 into the CASE. The entries will indicate whether such payments resulted from settling a claim prior to suit or settlement of judgment as the result of a suit.

Currently, the Internal Revenue Manual (IRM) contains procedures for reporting allegations of inappropriate behavior, but the procedures do not refer specifically to the new case issues that are used to identify FDCPA violations. The IRS will supplement the IRM to include procedures that will require managers to identify alleged FDCPA violations and report the violations to the servicing Labor Relations office so they can be tracked on the ALERTS.

Management's complete response to the draft report is included as Appendix VII.



# The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations

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## Objective and Scope

*The overall objective of this review was to obtain information regarding any employee administrative actions or money paid on a civil action as a result of violations of the FDCPA.*

The overall objective of this review was to obtain information regarding any Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692b (1996), violations resulting in employee administrative actions or money paid as a part of a civil action against the United States (U.S.) Government.

To accomplish our objective, we:

- Determined if Internal Revenue Service (IRS) management information systems captured FDCPA violations.
- Reviewed case documentation from IRS management information systems to determine the number of FDCPA violations with employee administrative actions.
- Conducted limited visitations at the IRS National Office and eight IRS field offices to determine how IRS management controls and tracks taxpayer complaints of employee FDCPA violations.
- Contacted the Department of Justice's (DOJ) Tax Division and reviewed its reports to determine if there were any taxpayer FDCPA civil actions that resulted in monetary settlements or judgments.

We are required to report annually on the number of FDCPA violations with employee administrative actions and the money paid as a result of a civil suit against the U.S. Government. This review was limited to obtaining information about FDCPA violations resulting in employee administrative or civil actions. Due to time constraints, we did not evaluate processes the IRS may be using to ensure employees do not violate fair debt collection requirements during their attempts to collect taxes, or determine whether FDCPA violations were properly investigated. We also did not attempt to

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identify the total number of open FDCPA violations. We plan to address the process of identifying and reporting FDCPA violations in a future review. Our review was conducted between January 1999 and May 1999 in the Houston, Kentucky-Tennessee, Los Angeles, Midwest, North Florida, Ohio, Pacific-Northwest, and Upstate New York Districts.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

### Background

On July 22, 1998, the President signed into law the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (future references to this law will be to the law in general and will be referred to as RRA 98). A provision in RRA 98 added 26 U.S.C. § 7803(d)(1)(G) (1986) that required the Treasury Inspector General for Tax Administration (TIGTA) to report in one of the semiannual reports information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of the 26 U.S.C. § 6304 (1986).

The FDCPA included provisions that restrict various collection abuses and harassment in the private sector that did not apply to the U.S. Government. The Congress believed that the IRS should be at least as considerate to taxpayers as private creditors are required to be with their customers.

*The RRA 98 requires the IRS to comply with the FDCPA restrictions regarding communication and avoiding abusive or harassing contact with taxpayers.*

The RRA 98 requires the IRS to comply with the following restrictions of the FDCPA. In particular, the IRS may not communicate with taxpayers in the collection of any unpaid tax:

- At unusual or inconvenient times.

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- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS and the IRS knows or can easily obtain the representative's name and address.
- At the taxpayer's place of employment if the IRS knows or has reason to know that such communication is prohibited.
- With the intent to harass or abuse, including engaging in activity involving the use or threat of violence, use of profane language, telephone calls which ring continuously, or calls where the employee does not properly identify himself or herself.

*If taxpayers believe the IRS has violated their FDCPA rights, they may file a civil action against the U.S. Government for damages.*

If taxpayers believe the IRS has violated their FDCPA rights, they may file a civil action for damages against the U.S. Government under 26 U.S.C. § 7433 (1986). Taxpayers may file an administrative claim for damages with the IRS District Director in the District in which they reside or file for civil damages in a Federal District Court. However, with respect to civil damages, a judgment for damages shall not be awarded if the court determines the taxpayer did not exhaust the administrative remedies available to the taxpayer within the IRS. A synopsis of 26 U.S.C. § 6304 (1986) sections dealing with the FDCPA is contained in Appendix VI.

The IRS' definition of administrative actions includes disciplinary actions ranging from admonishment through suspension or removal. Administrative actions do not include the lesser actions of oral counseling or reprimand. We used the IRS' definition of administrative actions when determining the number of FDCPA violations to be reported to the Congress in accordance with 26 U.S.C. § 7803(d)(1)(G) (1986).

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**Results**

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*We did not identify any civil actions against the U.S. Government where money was paid out to taxpayers as a result of FDCPA violations by IRS employees.*

Information provided by the DOJ Tax Division indicated that as of January 31, 1999, there were no civil actions where money was paid out to taxpayers as a result of FDCPA violations by IRS employees. Through our review of the IRS' various management information systems, 1, 3d-----

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During our limited review of the IRS' process for controlling and tracking potential FDCPA violations, we identified two areas needing IRS management attention. IRS management addressed the first area during our audit when we brought the issue to their attention.

- The IRS has upgraded existing management information systems to track FDCPA violations and identify monetary settlements to taxpayers.
- IRS management may not always properly report potential FDCPA violations.

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**The Internal Revenue Service Has Upgraded Existing Management Information Systems to Track Fair Debt Collection Practices Act Violations and Identify Monetary Settlements to Taxpayers**

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*Taxpayer complaints, including potential FDCPA violations, can be identified through several IRS functions and their management information systems.*

Taxpayer complaints about IRS employee conduct, including potential FDCPA violations, can be identified through several IRS functions and their related management information systems. If IRS management determines that a taxpayer's FDCPA rights were

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potentially violated, they should refer the complaint to the Office of Labor Relations for tracking.

At the time of our review, the IRS did not have specific codes to identify fair debt collection violations on any of the systems discussed below. This prevented us from readily identifying the FDCPA violations that need to be reported to the Congress. We did not determine why the IRS did not have specific FDCPA violation codes because it was outside the scope of our review.

However, when we discussed this issue with IRS management, they informed us they were already in the process of adding codes to the Office of Labor Relations' Automated Labor and Employee Relations Tracking System (ALERTS), the primary management information system for tracking FDCPA violations.

They also agreed to add FDCPA violation codes to the Office of Chief Counsel's Counsel Automated System Environment (CASE), which tracks litigation and civil actions against the U.S. Government.

*IRS management has already taken steps to create specific codes to track potential FDCPA violations on the ALERTS.*

Office of Labor Relations: The ALERTS tracks a wide range of labor relations activity, including actions taken based on findings of IRS employee conduct or performance problems. Information on the ALERTS is updated and tracked throughout the process of determining whether a violation occurred to the final decision on whether employee administrative action is warranted. Appendix IV includes our memorandum and the Office of Labor Relations' response regarding updating the ALERTS to include new codes to specifically track FDCPA violations.

Office of Chief Counsel: The CASE serves as a general litigation case inventory control system. General litigation cases involve, for example, taxpayer suits, bankruptcy, and advisory opinions. Advisory opinions cover a variety of subjects, such as seizure cases or offers-in-compromise.

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Discussions with the Office of Chief Counsel disclosed that monies paid to taxpayers who win judgments against the U.S. Government are paid by the DOJ's Judgment Fund Branch. Information provided to us by the DOJ indicated there were no civil actions where money has been paid out to taxpayers as a result of FDCPA violations.

*The Office of Chief Counsel has updated its CASE to capture FDCPA civil actions and money paid to taxpayers that are successful in FDCPA civil actions against the U.S. Government.*

We issued an audit memorandum to the Office of Chief Counsel on April 15, 1999, recommending a specific tracking code be added to the CASE to identify FDCPA civil actions filed by taxpayers and to begin tracking money paid out of the Judgment Fund to taxpayers who are successful in FDCPA civil actions against the IRS. As of June 11, 1999, the CASE had been updated to include a new sub-category to capture violations of the FDCPA incorporated into 26 U.S.C. § 6304 (1986) and actionable under 26 U.S.C. § 7433 (1986). Appendix V includes our memorandum and the Office of Chief Counsel's response regarding updating the CASE to include new codes to specifically track potential FDCPA civil actions.

Management's Response: The IRS has upgraded the ALERTS by adding new issue codes that specifically identify FDCPA violations. Guidance has been sent to the Office of Labor Relations staff to ensure proper use of these codes. The Office of Chief Counsel will now be entering case information regarding amounts paid out for violations of 26 U.S.C. § 6304 into the CASE. The entries will indicate whether such payments resulted from settling a claim prior to suit or settlement of judgment as the result of a suit.

### **Analysis of Management Information Systems**

Because the IRS systems did not track potential FDCPA violations at the time of our review, we attempted to identify potential violations by analyzing selected cases from the ALERTS. We also reviewed taxpayer complaint cases on the Office of Taxpayer Advocate's

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Customer Feedback System (CFS) and employee conduct cases on the TIGTA Office of Investigations' Investigations Management Information System (IMIS).

*The lack of specific codes to identify potential fair debt collection violations on the IRS systems prompted our additional review of the ALERTS.*

**Analysis of ALERTS Cases**

Information recorded on the ALERTS is classified by "Case Type," while the employee behavior is classified by "Issue Code." To identify FDCPA violations that resulted in employee administration actions, we selected case types and issue codes with the highest probability of containing FDCPA violations. We requested a list of Case Type "A" (Administration) and "I" (Investigations) having the following issue codes:

<u>Issue Code</u>	<u>Description</u>
004	Unacceptable Work Performance
009	Off Duty Misconduct
013	Misuse of Position/Authority
020	Fighting, Assaults, and Threats
022	Taxpayer Charge or Complaint
058	Unprofessional Conduct
090	Rude/Discourteous Conduct

We reviewed the 201 ALERTS cases that met our criteria that were both opened and resolved between July 22, 1998, and March 18, 1999, and 1, 3d-----

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1, 3d----- - These are the only cases we found that meet the requirement for reporting to the Congress.

**Analysis of CFS Cases**

Taxpayer complaints can also be tracked on the CFS in the Taxpayer Advocate's office. Taxpayer feedback is

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documented by IRS management on a Customer Feedback Record (Form 10004) and forwarded to the Taxpayer Advocate's office for input to the CFS. Prior to inputting the taxpayer complaint information, the Taxpayer Advocate's office ensures that the taxpayer's complaint has been addressed. However, the Taxpayer Advocate's office serves only as a clearinghouse for complaints and does not determine whether management actions were appropriate in resolving the complaint. IRS management in the other functional areas are responsible for coordinating cases resulting in employee disciplinary action with the Office of Labor Relations, which enters the case on the ALERTS.

Because the CFS does not specifically track cases as potential FDCPA violations, we could not identify any violations on that particular system.

### **Analysis of IMIS Cases**

In addition to the IRS systems previously discussed, the TIGTA Office of Investigations tracks, on its IMIS, complaints of IRS employee misconduct that could involve FDCPA violations. Employee misconduct can involve employee theft/embezzlements, assaults, bribery, fraud, or intimidation/harassment of taxpayers. Results of investigations can then be presented to the United States Attorney for prosecution. If accepted, an Assistant United States Attorney will prosecute the case. If declined, cases are referred to IRS management for appropriate employee administrative actions.

The TIGTA Office of Investigations enters complaints into the IMIS by an assigned category code and a violation code that provide a brief description of the alleged inappropriate employee behavior (threat, assault, bribe, etc.). As a result of RRA 98, the Office of Investigations created new fair debt collection violation codes on the IMIS. In addition, all cases open on or after July 22, 1998, were reviewed by the Office of Investigations and assigned fair debt collection codes, if



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warranted. We reviewed the 23 IMIS cases with fair debt collection violation codes opened between July 22, 1998, and March 18, 1999. Because the cases are still pending completion, no decision has been made on the action to be taken.

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**Internal Revenue Service Management May Not Always Properly Report Potential Fair Debt Collection Practices Act Violations**

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We surveyed all 43 IRS District and Service Center Directors on whether they maintained any records of FDCPA violations and any monies paid out based on civil actions. We received responses from 35 Directors and all of them stated that they had no records that any employee violations of the FDCPA were committed between July 22, 1998, and January 31, 1999.

*We identified three complaints involving potential FDCPA violations that were not reported to the Office of Labor Relations.*

We also reviewed, in two districts, all the available taxpayer complaints recorded on Forms 10004 for the period July 22, 1998, to January 31, 1999, to determine if any involved potential FDCPA violations. We identified three complaints involving potential FDCPA violations that were not reported to the Office of Labor Relations. However, because our review of Forms 10004 was limited to two district offices, we cannot conclude that this is a nationwide problem. We plan to address this issue during our Fiscal Year 2000 review.

We reviewed the three complaints 1, 3d-----  
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1, 3d----- While these complaints were handled internally through the Taxpayer Advocate's office, they should also have been referred to the Office

## **The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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of Labor Relations to be tracked on the ALERTS. IRS management has agreed that these complaints should have been referred as potential FDCPA violations. Also, our review of the 23 IMIS cases with FDCPA codes identified 7 potential FDCPA violations (from 6 different districts in 3 separate regions) that IRS management had referred to the TIGTA Office of Investigations as potential RRA 98 § 1203 violations, but had not indicated they were also potential FDCPA violations. Instead, the potential violations were identified by the Office of Investigations and coded as such on the IMIS. We did not determine why the IRS did not report these cases as potential FDCPA violations.

IRS managers are responsible for understanding the provisions of the FDCPA to ensure taxpayer complaints of fair debt collection violations are properly identified and reported for appropriate administrative action. However, the IRS provided only limited training on the new RRA 98 provisions and did not provide specific guidance on the FDCPA regulations and reporting process to employees in the Chief Operations Officer organization or in the Taxpayer Advocate's office.

Because of the limited scope of our current review, we were unable to determine the root cause of the problem of not identifying and reporting potential FDCPA violations. Accordingly, we are not making any recommendations at this time. We will be doing a subsequent review to determine whether potential FDCPA violations are being properly reported nationwide.

Management's Response: Currently, the Internal Revenue Manual (IRM) contains procedures for reporting allegations of inappropriate behavior, but the procedures do not refer specifically to the new case issues that are used to identify FDCPA violations. The IRS will supplement the IRM to include procedures that

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will require managers to identify alleged FDCPA violations and report the violations to the servicing Labor Relations office so they can be tracked on the ALERTS.

**Conclusion**

We are required to provide information annually to the Congress regarding any administrative or civil actions with respect to violations of the FDCPA, including a summary of employee administrative actions taken against IRS employees and a summary of money paid as part of a civil action. Our review of IRS records for the period July 22, 1998, through March 18, 1999, 1, 3d-----  
1, 3d-----  
1, 3d----- No monies have been paid out from civil actions filed as a result of FDCPA violations.

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1, 3d----- To increase the reliability of its management information systems, the IRS upgraded existing systems to track potential FDCPA violations and to identify monetary settlements to taxpayers.

IRS reports show that approximately 2.5 million taxpayers were in active Collection status as of March 31, 1999. All of these taxpayers are at risk of abuse if IRS employees do not comply with the FDCPA regulations.

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## Appendix I

### Detailed Objective, Scope, and Methodology

The overall objective of this review was to obtain information regarding any Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692b (1996) violations resulting in employee administrative actions or money paid as part of a civil action against the United States Government. To accomplish this objective, we conducted the following audit tests.

- I. Determined if FDCPA violations resulting in administrative or civil actions were captured in the offices of the District or Service Center Directors.
  - A. Issued a memorandum to all 43 District and Service Center Directors' offices to obtain information on FDCPA violations resulting in administrative or civil actions.
  - B. Discussed with eight randomly selected District Directors how taxpayer complaints were captured and how cases were processed from receipt to disposition, including:
    1. Administrative monetary settlements with taxpayers.
    2. Administrative disciplinary actions taken on employees.
    3. Civil actions by taxpayers.
  - C. Discussed with Collection Division management how complaints were captured and how cases were processed from receipt to disposition.
  - D. Requested a listing or report of FDCPA violations received through the District or Service Center Directors' offices.
- II. Determined if FDCPA violations were captured on the Office of Labor Relations' Automated Labor and Employee Relations Tracking System (ALERTS).
  - A. Discussed with National and Regional Office of Labor Relations personnel whether FDCPA violations were captured on the ALERTS and how violations were processed from receipt to disposition.
  - B. Obtained and reviewed a download of the 201 ALERTS cases that met our criteria and that were both opened and closed between July 22, 1998, and March 18, 1999, to identify potential FDCPA violations.
    1. Sorted identified violations by type (Communication with the Taxpayer or Harassment and Abuse).

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2. Determined the disposition of each violation.
- III. Determined if FDCPA violations were captured on the Taxpayer Advocate's Customer Feedback System and how violations were processed from receipt to disposition, by interviewing National and District Taxpayer Advocate personnel. Reviewed all the Customer Feedback Records (Form 10004) for the period July 22, 1998, to January 31, 1999, in two districts to determine if any of the complaints dealt with potential FDCPA violations.
- IV. Determined if FDCPA violations were captured on the Treasury Inspector General for Tax Administration (TIGTA) Investigations Management Information System (IMIS).
  - A. Discussed with TIGTA Office of Investigations personnel whether FDCPA violations were captured and how violations were processed from receipt to disposition.
  - B. Obtained a download of the 23 IMIS cases that had a FDCPA violation code indicating a potential FDCPA violation had occurred between July 22, 1998, and February 28, 1999, to identify the number of violations resulting in administrative actions.
  - C. Traced cases closed with administrative action (identified in IV.B.) to the ALERTS database to determine whether they were reported to the Office of Labor Relations.
- V. Determined if FDCPA violations that resulted in civil actions were captured on the Office of Chief Counsel's Counsel Automated System Environment (CASE) and how violations were processed from receipt to disposition, by interviewing personnel from the Chief Counsel's office.
- VI. Determined the nationwide number of FDCPA violations that resulted in civil actions where monetary settlements were awarded to taxpayers.
  - A. Discussed with national and regional fiscal office management procedures required for disbursing monetary payments to settle taxpayer administrative claims for damages or civil actions.
  - B. Identified the fiscal accounting codes related to settlement disbursements for FDCPA violations.
  - C. Contacted the Department of Justice's Tax Division to determine whether its system(s) contained any taxpayer FDCPA civil actions or monetary settlements with taxpayers.

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**Appendix II**

**Major Contributors to This Report**

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Frank Jones, Senior Auditor  
Brian Kelly, Senior Auditor  
E. John Thomas, Senior Auditor  
Charlie Winn, Senior Auditor  
Paul Baker, Auditor  
Doris Cervantes, Auditor  
Debra Dunn, Auditor  
George Franklin, Auditor  
Andrea Hayes, Auditor  
Erin Kaauwai, Auditor  
Kristi Larson, Auditor  
Julian O'Neal, Auditor  
Susan Price, Auditor  
Steven Stephens, Auditor  
Ronnie Summers, Auditor  
William Thompson, Auditor  
David Yorkowitz, Auditor

**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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**Appendix III**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
Chief Operations Officer OP  
Chief Management and Finance M  
Assistant Commissioner (Collection) OP:CO  
Assistant Commissioner (Support Services) M:S  
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP  
National Director for Legislative Affairs CL:LA  
Office of the Chief Counsel CC  
Director, Houston District D  
Director, Kentucky-Tennessee District D  
Director, Los Angeles District D  
Director, Midwest District D  
Director, North Florida District D  
Director, Ohio District D  
Director, Pacific-Northwest District D  
Director, Upstate New York District D  
Office of Management Controls M:CFO:A:M  
Audit Liaison:  
    Assistant Commissioner (Support Services) M:S

The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations

Appendix IV

Memorandum #1 – Office of Labor Relations and the Internal Revenue Service’s Response



OFFICE of  
INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

DEPARTMENT OF THE TREASURY  
401 W. Peachtree Street, Atlanta, GA 30365

April 15, 1999

Response Date: April 22, 1999

MEMORANDUM FOR DIRECTOR, OFFICE OF LABOR RELATIONS M:S:L

*M. Susan Boehmer*

FROM: Acting Regional Inspector General for Audit

SUBJECT: Agreement to Facts: Codes Being Added to the Automated Labor and Employee Relations Tracking System for Fair Debt Collection Practices Act Violations

This memorandum is to confirm information discussed during our audit of Administrative and Civil Actions Resulting From Fair Debt Collection Practices Act (FDCPA) Violations. We are requesting agreement to the facts that Labor Relations has already taken or will take the following action as it relates to adding specific issue codes to the Automated Labor and Employee Relations Tracking System (ALERTS).

Planned Labor Relations Actions

Based on our discussions with Labor Relations personnel, ALERTS is being updated to mirror the Internal Security Management Information System (ISMIS) to include new codes that capture Section 1203 and FDCPA violations. The plans include adding seven case issue codes that identify specific FDCPA violations. These codes are:

- 741 – Fair Tax Collection/Unusual Contact with Taxpayer
- 742 – Direct Contact with Taxpayer without Tax Representative Consent
- 743 – Contact at Taxpayer Employment without Consent
- 744 – Harassment/Abuse by Use or Threat of Use
- 745 – Use of Obscene or Profane Language to Abuse
- 746 – Continuous Telephone Calls with Intent to Harass
- 747 – Telephone Calls to Taxpayer without Meaningful Disclosure of Identity



## **The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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These new codes should help ensure there will be information available for the Treasury Inspector General for Tax Administration to identify and report to the Congress the number of closed FDCPA violations resulting in administrative disciplinary actions.

If the planned Labor Relations action is correct, please inform us in writing of your agreement to the facts, the proposed effective date for the new codes, and the Responsible Official for implementing the new codes. If not, please inform us as to any differences. If you have any questions, please contact me at (404) 338-7453, or your staff may contact Deputy Regional Inspector General for Audit Nancy A. Nakamura at (404) 338-7416 or Audit Manager Lynn Wofchuck at (954) 423-7020.

**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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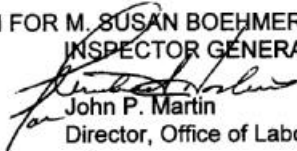


DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

APR 21 1999

MEMORANDUM FOR M. SUSAN BOEHMER, ACTING REGIONAL  
INSPECTOR GENERAL FOR AUDIT

FROM:

  
John P. Martin  
Director, Office of Labor Relations

SUBJECT:

Agreement to Facts: Codes Being Added to the Automated  
Labor and Employee Relations Tracking System for Fair Debt  
Collection Practices Act Violations

In response to your memo dated April 15, 1999, we would like to confirm that on March 3, 1999, seven issue codes that identify specific Fair Debt Collection Practices Act (FDCPA) violations were added to the Automated Labor and Employee Relations Tracking System (ALERTS). In addition, guidance concerning these additional issue codes was sent to all ALERTS coordinators, Labor Relations contacts, and Host Site Chiefs on March 15, 1999.

Attached is a copy of the additional issue codes. The last two numbers assigned in ALERTS, match the last two digits of the corresponding violations in the Internal Security Management Information System (ISMIS) database.

If you have any questions or need any further information, please call Floy Rupp at (202) 622-3779.

Attachment

**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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Attachment

FAIR DEBT COLLECTION PRACTICES ACT  
(FDCPA)  
ALERTS Codes Added March 3, 1999

ISSUE CODE	ISSUE
141	FAIR TAX COLL UNUSUAL CONTACT W/TP
142	DIRECT CONTACT W/TP W/O REP CONSENT
143	CONTACT AT TP EMPLYMT WHEN PROHIBIT
144	HARASSMENT/ABUSE USE/THREAT OF USE
145	USE OBSCENE/PROFANE LANG TO ABUSE
146	CONT PHONE CALLS W/INTENT TO HARASS
147	PHONECALLS W/O M'FUL ID DISCLOSURE

The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations

Appendix V

Memorandum #2 – Office of Chief Counsel and the Internal Revenue Service's Response



OFFICE of  
INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

DEPARTMENT OF THE TREASURY  
401 W. Peachtree Street, Atlanta, GA 30365

April 15, 1999

Response Date: April 22, 1999

MEMORANDUM FOR CHIEF COUNSEL CC

*M. Susan Boetman*  
FROM: Acting Regional Inspector General for Audit

SUBJECT: Agreement to Facts: Code Being Added to the Chief Counsel Automated System for Fair Debt Collection Practices Act Violations

This memorandum is to confirm information discussed during our audit of Administrative and Civil Actions Resulting From Fair Debt Collection Practices Act (FDCPA) Violations. We are requesting agreement to the facts that Chief Counsel Litigation function management has agreed to take the following action as it relates to adding a specific General Litigation tracking number to the Chief Counsel Automated System Environment (CASE) system.

Planned Chief Counsel Action

A new General Litigation tracking number will be added to CASE to capture IRC 7433 judicial and administrative suits and damages under unauthorized collection violations of the FDCPA.

This new number should help ensure there will be information available for the Treasury Inspector General for Tax Administration to identify and report to the Congress the number of closed FDCPA violations resulting in civil suits and monetary settlements with taxpayers.

If the planned Chief Counsel action is correct, please inform us in writing of your agreement to the facts, the proposed effective date for the new tracking number, and the Responsible Official for implementing the new number. If not, please inform us as to any differences. If you have any questions, please contact me at (404) 338-7453, or

**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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your staff may contact Deputy Regional Inspector General for Audit Nancy A. Nakamura at (404) 338-7416 or Audit Manager Lynn Wofchuck at (954) 423-7020.

The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations

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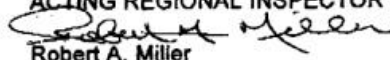
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

JUN 11 1999

GL-110978-99

MEMORANDUM FOR M. SUSAN BOCHMER  
ACTING REGIONAL INSPECTOR FOR AUDIT

FROM:

  
Robert A. Milier  
Senior Technician Reviewer B03, General Litigation

SUBJECT:

Agreement to Facts: Code Being Added to the Chief Counsel  
Automated System for Fair Debt Collection Practices Act  
Violations

This is our response to your memorandum of April 15, 1999, to the Chief Counsel concerning information discussed during your audit of Administrative and Civil Actions Resulting from Fair Debt Collection Practices Act (FDCPA) violations. Your office is required to report to Congress on a semi-annual basis the amount paid out, either because of honored claims or settlement of suits, for violations of several sections of the Fair Debt Collection Practices Act which were incorporated into the Internal Revenue Code in new section 6304.

In order for damages to be paid by the government, there has to be a waiver of sovereign immunity and, with respect to violations of the Internal Revenue Code, section 7433 is the exclusive waiver of sovereign immunity. Section 7433 cases are currently tracked by Chief Counsel field offices in the CASE - GL system. We have recently created a new sub-category in CASE - GL under section 7433 for "work related to alleged violations of IRC section 6304 (relating to certain debt collection practices involving communications with taxpayers actionable under section 7433." Amounts paid out for violations of section 6304 are to be entered by the field office into the CASE - GL system, whether such payments result from settling a claim prior to suit, or settlement or judgment as the result of a suit.

Your memorandum indicates that the planned Chief Counsel Action is as follows:

A new general litigation tracking number will be added to CASE to capture IRC 7433 judicial and administrative suits and damages under unauthorized collection violations of the FDCPA.

## **The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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As discussed with Mr. Frank W. Jones of your office, we would suggest that the planned action be rephrased as follows:

A new sub-category will be added to CASE- GL to capture violations of the FDCPA incorporated into IRC 6304 and actionable under IRC 7433.

If you have any questions or comments, please call me at (202) 622-3209.

**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

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**Appendix VI**

**Synopsis of 26 U.S.C. (1986) Sections on the Fair Debt Collection Practices Act**

26 U.S.C. § 6304(a) (1986) generally states that the Internal Revenue Service (IRS), without prior consent given directly by the taxpayer, may not communicate with taxpayers in the collection of any unpaid tax:

1. At unusual or inconvenient times.
2. If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS and the IRS knows or can easily obtain the representative's name and address.
3. At the taxpayer's place of employment if the IRS knows or has reason to know that such communication is prohibited.

26 U.S.C. § 6304(b) (1986) generally states the IRS may not engage in any conduct which is intended to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. The following conduct is a violation of this subsection:

1. The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
2. The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
3. Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
4. Placement of calls without meaningful disclosure of the caller's identity.

26 U.S.C. § 6304(c) (1986) generally states taxpayers can now file civil actions against the Government under 26 U.S.C. § 7433 (1986) for violations for unauthorized collection actions.

26 U.S.C. § 7433 (1986) generally states taxpayers can file civil actions for damages against the United States in a district court of the United States if any IRS employee, in connection with any collection of Federal tax, recklessly or intentionally, or by reason of negligence, disregards any provision of this title. Also, a judgment for damages shall not be awarded unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the IRS.



**The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations**

**Appendix VII**

**Management's Response to the Draft Report**



COMMISSIONER

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

October 28, 1999

OFFICE OF TREASURY  
INSPECTOR GENERAL  
RECEIVED  
1999 11-489LUXLV  
1999 NOV -2 A 10-19

FOR TAX ADMINISTRATION

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT  
DEPARTMENT OF THE TREASURY

FROM: Charles O. Rossotti *CR*  
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report - The Internal Revenue Service  
Is Now Tracking Potential Fair Debt Collection Practices  
Act Violations, But May Not Always Be Properly Reporting  
Violations- Urmem 9/21/99

Thank you for the opportunity to comment on your draft report entitled "The Internal Revenue Service (IRS) Is Now Tracking Potential Fair Debt Collection Practices Act (FDCPA) Violations But May Not Always Be Properly Reporting Violations," dated September 21, 1999.

We want to share background as to the evolution of IRS practices in this area. The IRS Restructuring and Reform Act of 1998, Public Law No. 105-206, 11 Stat. 685 (1998), hereafter referred to as RRA '98, requires the IRS to be as considerate to taxpayers as private creditors are required to be by the FDCPA, 15 USC Section 1692b (1996). The FDCPA included provisions that restrict various collection abuses and harassment in the private sector, but did not apply these provisions to the Federal Government. As a result of RRA '98, taxpayers whose FDCPA rights are violated can now file a civil action under 26 USC 7443 (1986) for damages against the government.

Taxpayers can file complaints through several means, which includes contacting the offending employee's manager, the Treasury Inspector General for Taxpayer Administration or the Taxpayer Advocate Office. IRS has attempted to monitor all complaints through the Automated Labor/Employee Relations Tracking System (ALERTS), which is maintained by the local Labor Relations Offices. however, not all complaints are reported to Labor Relations.

Finding: The Internal Revenue Service needs to upgrade existing management information systems to track FDCPA violations.

## The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations

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**Cause:** Systems were not created to interface and processes were not in place to ensure all complaints were referred to Labor Relations to be entered into ALERTS.

**Corrective Action:** ALERTS has been upgraded. We have added new issue codes that specifically identify FDCPA violations. These codes mirror the codes tracked by the Treasury Inspector General for Tax Administration (TIGTA) in Inspection Management Information Systems (IMIS). Guidance has been sent to our Labor Relations staffs to ensure proper use of these codes.

Chief Counsel is now entering case information regarding amounts paid out for violations of IRC section 6304 into the Counsel Automated System Environment (CASE). These entries indicate whether such payments resulted from settling a claim prior to suit or settlement of judgment as the result of a suit.

**Finding:** The Internal Revenue Service may not always properly report FDCPA violations.

**Cause:** Taxpayers may report violations through several avenues. IRS systems do not always interface. Procedures for reporting complaints were not in place and/or were not publicized.

**Corrective Action:** Procedures for reporting allegations of inappropriate behavior are contained in IRM 114.1, Compliance and Customer Service Managers' Handbook. However, the procedures do not refer specifically to the new case issues that are used to identify FDCPA violations. By March 1, 2000, the Assistant Commissioner Collection will supplement the IRM to include procedures that will require managers to identify alleged FDCPA violations and report the violations to the servicing Labor Relations office, so they can be tracked on ALERTS.

We have not identified any information in the report that would warrant protection under the Freedom of Information Act or other applicable laws.

If you have any questions or need additional information, please contact John Martin, Director, Office of Workforce Relations at (202) 622-8801.