



*Fiscal Year 2006 Statutory Review  
of Disclosure of Collection Activity  
With Respect to Joint Returns*

**August 28, 2006**

**Reference Number: 2006-40-135**

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

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TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

August 28, 2006

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

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

**SUBJECT:** Final Audit Report – Fiscal Year 2006 Statutory Review of  
Disclosure of Collection Activity With Respect to Joint Returns  
(Audit # 200640001)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) is in compliance with Internal Revenue Code Section (I.R.C. §) 6103(e)(8) (2000 Supple. 3) related to the disclosure of collection activities to joint filers. The Treasury Inspector General for Tax Administration was statutorily required to conduct this audit.

*Synopsis*

IRS policies and procedures provide employees with sufficient guidance for handling joint filer collection activity information requests. However, we could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written information requests from joint filers. This is the eighth year in which we have reported our inability to give an opinion on the IRS' compliance with the provisions of I.R.C. § 6103(e)(8).

***IRS policies and procedures provide employees with sufficient guidance for handling joint filer collection activity information requests.***

The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(B) (2000 Supple. 3) to evaluate annually the IRS' compliance with the joint filer request provisions of the law. IRS management information systems do not separately record or monitor joint filer requests, and Congress has not explicitly required the IRS to do so. Furthermore, we do not recommend the creation of a separate tracking system. Accordingly, we made no recommendations in this report.



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*Response*

The IRS agreed with the information presented in this report. Management's complete response to the draft report is included as Appendix IV.

Copies of this report are also being sent to the IRS managers affected by the report results. 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.



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*Abbreviations*

I.R.C. §	Internal Revenue Code Section
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed
TBOR2	Taxpayer Bill of Rights 2
TIGTA	Treasury Inspector General for Tax Administration
W&I	Wage and Investment



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## *Background*

The Taxpayer Bill of Rights 2 (TBOR2)<sup>1</sup> added Internal Revenue Code Section (I.R.C. §) 6103(e)(8) (2000 Supple. 3), which gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the Internal Revenue Service's (IRS) efforts to collect delinquent taxes on their joint return liabilities.

I.R.C. § 6103(e)(8) requires the IRS to provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the TBOR2, the IRS issued procedures which stated that, if I.R.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon I.R.C. § 6103(e)(7) (2000 Supple. 3).

The IRS Restructuring and Reform Act of 1998<sup>2</sup> added I.R.C. § 7803(d)(1)(B) (2000 Supple. 3), which requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether the IRS is complying with the requirements of I.R.C. § 6103(e)(8).

***The TIGTA is required to evaluate  
annually IRS compliance with  
I.R.C. § 6103(e)(8).***

The IRS Restructuring and Reform Act of 1998 also required both the Secretary of the Treasury and the Joint Committee on Taxation to complete separate studies of the scope and use of provisions regarding taxpayer confidentiality. The Joint Committee on Taxation issued its study report in January 2000 and recommended I.R.C. § 6103(e)(8) be amended to allow for oral information requests in addition to written requests. The Department of the Treasury issued its study report in October 2000 with a recommendation to eliminate the requirement that joint filer information requests be in writing. The Department of the Treasury report also suggested that the TIGTA's reporting requirement regarding joint filer requests be phased out. There had been some proposed legislation in 2002 (which did not pass) that would have eliminated the requirement for taxpayers to provide written requests under I.R.C. § 6103(e)(8).

A study by the IRS concluded there was a low volume of joint filer requests submitted under I.R.C. § 6103(e)(8). An analysis of 6 former district offices over a 6-month period in Calendar Year 2000 identified only 5 written joint filer requests. As a result of the study, management in the Small Business/Self-Employed (SB/SE) and Wage and Investment (W&I) Divisions<sup>3</sup> decided not to develop a management control process to track joint filer information requests.

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

<sup>2</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>3</sup> The SB/SE and W&I Divisions were created by the reorganization of the IRS. Components of the former Collection and Customer Service Divisions were made part of these Divisions.



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This review was performed in the IRS National Headquarters in the Office of the Commissioner and the National Taxpayer Advocate function in Washington, D.C., the SB/SE Division Headquarters in New Carrollton, Maryland, and the W&I Division Headquarters in Atlanta, Georgia, during the period April through June 2006. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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## *Results of Review*

### ***The Internal Revenue Manual Provides Employees Sufficient Guidance for Handling Joint Filer Collection Activity Information Requests***

The provision of TBOR2 related to joint filers was enacted out of Congressional concern about the treatment of separated or divorced taxpayers. Representative Nancy L. Johnson (R-Connecticut), when introducing the TBOR2, stated:

*The subcommittee learned of many instances where divorced taxpayers who had previously signed a joint tax return during their marriage were treated harshly when the IRS later disputed the accuracy of their joint tax return. In many cases the IRS tried to collect the entire amount of taxes from the wife, even though the omitted income or erroneous deductions which caused the deficiency were attributable solely to her former husband. All too often, the woman, being pursued for payment of taxes due, was not aware that a tax return filed during the marriage had been audited or that a deficiency had been imposed on the return.*

To address this concern, the IRS revised its Internal Revenue Manual to include procedures for responding to taxpayers who file jointly and submit written requests for information on IRS collection activity. The Internal Revenue Manual instructs employees to disclose whether any attempts have been made to collect the tax due from either one of the joint filers, the general nature of any collection activity, and the amount collected to date.

The Internal Revenue Manual procedures allow employees to provide both oral and written responses to taxpayers. I.R.C. § 6103(e)(8) requires that taxpayers provide joint filer requests in writing. IRS procedures require employees to respond in writing only when taxpayers specifically cite I.R.C. § 6103(e)(8) as their authority for making written requests for collection information on joint return liabilities.

If the taxpayer's written request does not specifically cite I.R.C. § 6103(e)(8), the IRS has directed employees to provide oral responses when practicable. The IRS believes oral responses provide good customer service to taxpayers because the taxpayers get an immediate answer.





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***Compliance With Statutory Requirements for the Disclosure of  
Collection Activity With Respect to Jointly Filed Tax Returns Cannot  
Be Determined***

IRS management information systems do not record or monitor joint filer requests. As such, we could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written requests from joint filers because of our inability to identify joint filer requests received nationwide. During this review, management from the SB/SE and W&I Divisions commented that the IRS' position has not changed from last year, and the IRS does not plan to implement a system to identify or track joint filer requests for collection activity. In addition, there is no statutory or regulatory requirement for the IRS to develop a separate system that records or monitors these requests.

We do not recommend the creation of a separate tracking system and are making no recommendations in this report. This is the eighth year in which we have reported our inability to provide an opinion on the IRS' compliance with the provisions of I.R.C. § 6103(e)(8).



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## Appendix I

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

The overall objective of this review was to determine whether the IRS is in compliance with I.R.C. § 6103(e)(8) (2000 Supple. 3) related to the disclosure of collection activities to joint filers. To accomplish our objective, we:

- I. Obtained confirmation from the SB/SE and W&I Divisions that the IRS neither has, nor plans to implement, a system or process to identify or track joint filer requests for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- II. Interviewed various IRS and TIGTA personnel responsible for the Taxpayer Advocate Management Information System,<sup>1</sup> the Information Tracking System,<sup>2</sup> and the Performance and Results Information System<sup>3</sup> to determine if there is a system or process that tracks taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).
- III. Gathered historical information to determine the Congressional intent in passing I.R.C. § 6103(e)(8).
  - A. Researched Congressional Committee reports to determine the Congressional intent of adding I.R.C. § 6103(e)(8) to the TBOR2,<sup>4</sup> thereby granting divorced or separated taxpayers the right to receive information regarding the IRS' efforts to collect delinquent taxes on joint tax return liabilities.
  - B. Researched Congressional Committee reports to determine the Congressional intent of adding I.R.C. § 7803(d)(1)(B) (2000 Supple. 3) to the IRS Restructuring and Reform Act of 1998,<sup>5</sup> thereby requiring the TIGTA to annually assess the IRS' compliance with I.R.C. § 6103(e)(8).

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<sup>1</sup> The Taxpayer Advocate Management Information System is an electronic database and case inventory control system used by Taxpayer Advocate Service employees.

<sup>2</sup> The Information Tracking System is an application used by the IRS to assign, control, and track information and correspondence. It replaced the Executive Control Management System.

<sup>3</sup> The Performance and Results Information System is a management information system that provides the TIGTA with the ability to manage and account for the thousands of complaints received and investigations initiated annually.

<sup>4</sup> Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

<sup>5</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.).



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- IV. Obtained information on the actions taken by the IRS in response to I.R.C. § 6103(e)(8) to determine the impact on IRS programs.
  - A. Reviewed all prior TIGTA audit reports for the Mandatory Joint Filer reviews and summarized the audit results, recommendations, and corrective actions taken by the IRS.
  - B. Reviewed historic Internal Revenue Manual sections to identify any updates made in response to I.R.C. § 6103(e)(8).
  - C. Reviewed IRWeb (the IRS Intranet) to identify the impact I.R.C. § 6103(e)(8) has had on any IRS programs.



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**Appendix II**

*Major Contributors to This Report*

Michael E. McKenney, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Mary V. Baker, Director

Bryce Kisler, Audit Manager

Craig Pelletier, Lead Auditor

Gwendolyn Green, Senior Auditor



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**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  
National Taxpayer Advocate TA  
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  
Chief Counsel CC  
National Taxpayer Advocate TA  
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:  
    Director, Communications and Liaison, National Taxpayer Advocate TA:CCL  
    Senior Operations Advisor, Wage and Investment Division SE:W:S  
    Chief, GAO/TIGTA/Legislative Implementation Branch SE:S:CLD:PSP:GTL



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**Appendix IV**

*Management's Response to the Draft Report*




NATIONAL DIRECTOR  
FOR LEGISLATIVE  
AFFAIRS

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

RECEIVED  
AUG 22 2006

August 18, 2006

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Floyd L. Williams   
Director of Legislative Affairs

SUBJECT: Draft Audit Report – Fiscal Year 2006 Statutory Review of  
Disclosure of Collection Activity With Respect to Joint  
Returns (Audit # 200640001)

I have reviewed your draft audit report concerning the annual review and certification of the Internal Revenue Service (IRS) compliance with the requirements of Internal Revenue Code section 6103(e)(8). We concur with your conclusion not to recommend that we create a separate system to track joint filer requests.

This provision continues to place a burden on both of our staffs to repeatedly address this issue. TIGTA has put forward and the IRS has supported proposals to repeal 26 U.S.C. section 7803(d)(1)(B).

The U.S. Senate approved legislation to repeal this provision on May 19, 2004 as part of the Tax Administration Good Government Act, which was incorporated as an amendment to a previously passed House measure, H.R. 1528. The 108th Congress adjourned before the Senate and House could meet to reconcile their respective versions of H.R. 1528. During the 109th Congress, the repeal of this provision was included in the Senate Committee on Finance's Mark-Up of S. 1321 (Telephone Excise Tax Repeal Act of 2005) and S. 832 (Taxpayer Protection and Assistance Act of 2005). The IRS continues to support Treasury in urging Congress to approve legislation to eliminate this mandatory audit. Enactment of the repeal provision will alleviate the need for TIGTA to annually review and certify compliance with joint filer information requests.

We appreciate that you continue to support the elimination of this unnecessary required report. If you have any questions, please contact me at (202) 622-4725.