

**Letter Report: Improvements Have Been
Implemented for Directly Contacting
Taxpayers and Their Representatives**

September 2000

Reference Number: 2000-10-132

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.



INSPECTOR GENERAL
for TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 18, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Letter Report - Improvements Have Been Implemented for
Directly Contacting Taxpayers and Their Representatives

This report presents the results of our review to determine whether Internal Revenue Service (IRS) employees followed proper procedures to stop an interview if the taxpayer requested to consult with his/her representative, whether employees followed proper procedures when bypassing the representative and contacting the taxpayer directly, and whether IRS management has completed implementing corrective actions in response to recommendations from our Fiscal Year 1999 audit.

In summary, we could not determine whether IRS employees complied with procedures when directly contacting taxpayers and their representatives because both the IRS and we are still unable to readily identify cases for review. However, we did determine that the IRS has clarified procedures for employees to help protect taxpayers' rights during interviews. The IRS is also developing a taxpayer survey to monitor whether employees are complying with procedures for contacting taxpayers and representatives. We did not make any recommendations in this report.

IRS management agreed to the facts and observations in the report. The full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report results. Please contact me at (202) 622-6510 if you have 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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Objectives and Scope

Our objectives were to determine if the IRS is in compliance with the requirements of 26 U.S.C. § 7521(b)(2) and (c)(1986), and to determine if management has completed implementing corrective actions in response to recommendations from our FY 1999 audit.

The objectives of this audit were to determine if the Internal Revenue Service (IRS) is in compliance with the requirements of 26 U.S.C. § 7521(b)(2) and (c) (1986), and to determine if management has completed implementing corrective actions in response to recommendations from our Fiscal Year (FY) 1999 audit.¹ To accomplish these objectives, we met with National Headquarters Examination and Collection management and reviewed documentation regarding these topics. We conducted our audit between May and June 2000 in accordance with *Government Auditing Standards*.

Major contributors to this report are listed in Appendix I. Appendix II contains the Report Distribution List.

Background

On July 22, 1998, the President signed the IRS Restructuring and Reform Act of 1998 (RRA 98)² into law. This added 26 U.S.C. § 7803(d)(1)(A)(ii), which requires the Treasury Inspector General for Tax Administration to annually evaluate the IRS' compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986). Under those sections, IRS employees are required to:

- Stop an interview with a taxpayer (unless the interview is required by court order) whenever a taxpayer requests to consult with a representative (any person, such as an accountant or attorney, who is permitted to represent taxpayers before the IRS).

¹ *The Internal Revenue Service Needs to Enhance Guidance on and Monitoring of Compliance with Procedures for Directly Contacting Taxpayers and Their Representatives*, (Reference No. 199910076, dated September 1999).

² Pub. L. No. 105-206, 112 Stat. 685.

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- Obtain their immediate supervisor's approval to contact the taxpayer directly instead of the representative whenever the representative is responsible for unreasonably delaying the completion of a tax audit or collection action.

In our FY 1999 audit, we could not determine whether employees were protecting taxpayers' rights because neither the IRS nor we could readily identify cases for review. This condition occurred because the IRS' management systems do not separately record or monitor cases where taxpayers have requested to consult with a representative or where employees appropriately bypass taxpayer representatives and contact taxpayers directly. Moreover, the IRS is not required to develop a separate system that records or monitors cases involving these two provisions.

We recommended that the IRS clarify existing procedures to ensure taxpayers and their representatives are treated consistently, and develop a process to determine whether employees are complying with 26 U.S.C. § 7521(b)(2) and (c) (1986) when a taxpayer requests to consult with a representative or the employee bypasses a representative.

Results

The IRS has begun implementing the corrective actions in response to our FY 1999 audit. Existing procedures for protecting taxpayers' rights during interviews have been clarified to ensure taxpayers and representatives are treated consistently within the Examination and Collection Divisions. In addition, the IRS is developing a new survey to measure employee compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986).

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We could not determine whether the IRS is complying with 26 U.S.C. § 7521 (b)(2) and (c) (1986) regarding directly contacting taxpayers and their representatives because both the IRS and we are still unable to readily identify cases for review.

However, we could not determine whether the IRS is in compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986) because both the IRS and we are still unable to readily identify cases where the taxpayer requested a representative or the IRS contacted the taxpayer directly and bypassed the representative. The IRS has not changed its process for handling these types of requests since our FY 1999 audit.

Accordingly, the remainder of this report discusses IRS management's actions to implement recommendations from our FY 1999 audit.

The Internal Revenue Service Issued Guidelines to Clarify Procedures for Directly Contacting Taxpayers and Their Representatives

Examination and Collection Division management issued memoranda to clarify the length of time interviews should be suspended when taxpayers request to consult with a representative, the appropriate person to contact when the interview covers additional tax periods, and whether consultation should be allowed during seizure action.

Reasonable time to consult a representative

IRS procedures require employees to stop and reschedule an interview when a taxpayer requests to consult with a representative during an interview. However, the procedures did not define the amount of time employees should allow taxpayers to consult with their representatives prior to rescheduling the interview.

To clarify the procedures, Examination Division management issued guidance to allow a minimum of 10 business days for the taxpayer to secure representation. Collection Division management issued guidance to allow up to 10 business days for the taxpayer to consult with the representative.

Examination and Collection Divisions issued guidance defining the amount of time employees should allow taxpayers to consult with a representative.

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Power of Attorney authorizations for additional tax periods

Previously, Examination and Collection Division procedures did not specify who should be contacted if the representative is authorized to represent the taxpayer on only one tax year, but the interview covers more than one year.

The taxpayer should be contacted directly and instructed to secure an additional authorization when the interview covers more tax periods than the Power of Attorney is currently authorized for.

Examination and Collection Division procedures were modified to require that the employee contact the taxpayer directly to secure a new Power of Attorney and Declaration of Representative (Form 2848) when the interview covers more tax periods than authorized by the current Form 2848.

Consultation during seizure actions

IRS procedures did not specify whether enforcement actions (such as seizure of property) should be considered an interview with a taxpayer for the purpose of 26 U.S.C. § 7521(b)(2) and (c) (1986).

Taxpayers are allowed to consult with a representative during seizure.

Collection Division procedures were modified to suspend the seizure for up to 10 days for taxpayers to consult with a representative. If the seizure is being made pursuant to a court order or, if in the revenue officer's judgment, suspension would result in the disappearance or dissipation of the asset, the consultation does not have to be allowed.

The Internal Revenue Service Is Developing a Survey to Monitor Employees' Compliance With Procedures for Directly Contacting Taxpayers

The IRS is developing a survey to obtain feedback directly from taxpayers about the IRS' compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986).

To determine employee compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986), IRS management decided to develop a survey to capture information from taxpayers that have been interviewed by IRS employees. Although the survey has not been completed, a written proposal was submitted to the Management and Finance function for approval and selection of a vendor. Examination Division

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management will work with the vendor to design the survey to meet the following objectives:

- Determine the level of compliance by Examination and Collection Division employees with the legal requirements that allow taxpayers to secure or consult with a representative anytime during the course of a tax audit or collection action.
- Gather information that will allow IRS management to determine the level of compliance by Examination and Collection Division employees with the legal requirement to secure appropriate management approval before bypassing the representative.

The survey is in the early stage of development, and we cannot determine at this time whether it will provide IRS management with a reliable method to determine if employees are in compliance with the 26 U.S.C. § 7521(b)(2) and (c) (1986).

Management's Response: IRS management agreed with the facts and observations in this report. Management's complete response is included as Appendix III.

Conclusion

We could not determine whether the IRS is in compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986) because both the IRS and we are still unable to readily identify cases for review. The IRS has not changed its process for handling these types of requests since our FY 1999 audit.

However, the IRS has begun implementing the corrective actions in response to our FY 1999 audit. Existing procedures for protecting taxpayers' rights during interviews have been clarified to ensure taxpayers and representatives are treated consistently within the Examination and Collection Divisions. In addition, the IRS is developing a new survey to measure employee compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986) regarding directly contacting taxpayers and their representatives.

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Appendix I

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Nancy A. Nakamura, Director

Gerald T. Hawkins, Audit Manager

Barry G. Huff, Senior Auditor

Perrin T. Gleaton, Auditor

Cindy J. Harris, Auditor

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Appendix II

Report Distribution List

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 Assistant Commissioner (Examination) OP:EX

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Appendix III

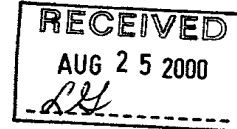
Management's Response to the Draft Report



COMMISSIONER

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

August 21, 2000



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

for Charles O. Rossotti *Bohulenzel*
Commissioner of Internal Revenue

SUBJECT:

Draft Letter Report – Improvements Have Been Implemented for Directly Contacting Taxpayers and Their Representatives

Thank you for the opportunity to review and comment on your recent draft report entitled "Improvements Have Been Implemented for Directly Contacting Taxpayers and Their Representatives." This report, in accordance with the Restructuring and Reform Act is required annually to review the procedures and practices for IRS employees to follow when taxpayers ask to consult with a representative during an IRS interview or when representatives are unreasonably delaying an IRS tax audit or a collection action.

We have reviewed your report and we agree with the facts and observations. We are also pleased to note that your report indicates we have completed all the procedural enhancements you recommended in last year's report and that no new recommendations are being made.

We have also reviewed the report from a disclosure perspective, and we do not find any information in the report that warrants protection.

If you have any questions or need additional information, please call me, or a member of your staff may contact Thomas R. Hull, Acting Assistant Commissioner (Examination), at (202) 622-4400.