

**Letter Report: Compliance With Statutory
Requirements for the Disclosure of
Collection Information to Joint Filers
Cannot Be Determined**

September 2000

Reference Number: 2000-10-148

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.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 26, 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 – Compliance With Statutory Requirements
for the Disclosure of Collection Information to Joint Filers Cannot
Be Determined

This report presents the results of our Fiscal Year (FY) 2000 Joint Filer review. In summary, we could not determine whether the Internal Revenue Service (IRS) complied with statutory requirements when responding to written joint filer requests because we were unable to readily identify cases for review. There is no requirement for, and the IRS does not maintain, separate records of joint filer requests and responses nationwide.

In our FY 1999 review, we recommended that National Headquarters Collection management contact the appropriate Congressional committees to ensure that the IRS' practice of allowing oral responses to written joint filer requests complies with the intent of the law. The Office of Legislative Affairs informed us that it had contacted staff of the Joint Committee on Taxation, who stated that the IRS' practice of providing oral responses to taxpayers was acceptable, even though 26 U.S.C. § 6103(e)(8) (Supp. IV 1998) requires that the disclosure be in writing.

We reviewed IRS management's corrective actions taken, based on a recommendation in our FY 1999 report, and found that National Headquarters Collection management was conducting a 6-month analysis to determine the volume of written joint filer

requests received, while Customer Service management had not initiated their joint filer study. Until IRS management conducts a complete analysis of the volume of written joint filer requests received, they will not be able to determine whether a centralized management control process is warranted. However, since the IRS is still working on the corrective actions in response to our FY 1999 report, no new recommendations are being made.

IRS management agreed with the observations in this report. The full text of their comments is included as an appendix.

Copies of the 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 questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

Letter Report: Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined

Objectives and Scope

Our objectives were to determine whether the IRS is complying with 26 U.S.C. § 6103(e)(8) and to determine the status of corrective actions IRS management agreed to implement in response to recommendations from our FY 1999 audit.

The objectives of this review were to determine whether the Internal Revenue Service (IRS) is complying with the provisions of the Taxpayer Bill of Rights 2 (TBOR2) (1996)¹ related to the disclosure of collection activities to joint filers² and to determine the status of corrective actions IRS management agreed to implement in response to recommendations from our Fiscal Year (FY) 1999 statutory audit.³ To accomplish these objectives, we interviewed Collection and Customer Service management in the National Headquarters and reviewed documentation regarding these topics.

We conducted our review during the period May through 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

The IRS Restructuring and Reform Act of 1998 (RRA 98)⁴ added 26 U.S.C. § 7803(d)(1)(B) (Supp. IV 1998), which requires the Treasury Inspector General for Tax Administration to review and certify

¹ Pub. L. No. 104-168, 110 Stat. 1452.

² Disclosure of Collection Activities with Respect to Joint Return, 26 U.S.C. § 6103(e)(8) (Supp. IV 1998).

³ *The Internal Revenue Service's Procedures for Responding to Written Requests for Collection Activity From Joint Filers Vary From Statutory Requirements* (Reference Number 19910077, dated September 1999).

⁴ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

**Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined**

annually whether the IRS is complying with the requirements of 26 U.S.C. § 6103(e)(8).

The TBOR2 added 26 U.S.C. § 6103(e)(8), which gave joint filer taxpayers who are no longer married or no longer reside in the same household the right to receive information regarding the IRS' efforts to collect delinquent taxes on their joint return liabilities. The procedures in 26 U.S.C. § 6103(e)(8) require that the IRS provide collection activity information to joint filers, in writing, if they send in a written request.

After the passage of the TBOR2, the IRS Disclosure Office issued procedures which stated that if 26 U.S.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either oral or written responses, based on 26 U.S.C. § 6103(e)(7).⁵ This provision permits the inspection or disclosure of return information to the same individuals who filed the return, if the Secretary of the Treasury determines that such disclosure would not seriously impair federal tax administration.

In our FY 1999 audit, we could not determine whether the IRS was protecting taxpayers' rights regarding joint filer requests for collection information because neither the IRS nor we could readily identify cases for review. This condition occurred because the IRS' management information systems do not separately record or monitor joint filer requests. Moreover, the IRS is not required to develop a separate system that records or monitors joint filer requests.

⁵ Return Information, 26 U.S.C. § 6103(e)(7) (1994).

**Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined**

Results

Overall, we could not determine whether the IRS is complying with 26 U.S.C. § 6103(e)(8) requirements for responding to written joint filer requests.

Overall, we could not determine whether the IRS is complying with 26 U.S.C. § 6103(e)(8) requirements for responding to written requests from joint filers because both we and the IRS are still unable to readily identify joint filer requests received nationwide. The IRS has not changed its process for handling these types of requests since our FY 1999 audit. However, the IRS Collection function has initiated a study in six district offices to track the volume of written joint filer requests received. We reviewed the four written requests received by those districts during the period January to May 2000 and determined that, in two of the cases reviewed, the IRS provided the information requested. We could not make a determination for the two remaining cases because the information about the request or the response was either vague or not available for our review.

The remainder of this report discusses IRS management's actions to implement the recommendations in our FY 1999 audit report.

**The Internal Revenue Service Recently
Obtained Congressional Feedback on Its
Practice of Providing Oral Responses**

At the time of this review, National Headquarters Collection management had not yet contacted the legislative committees.

In our FY 1999 review, we recommended that National Headquarters Collection management contact the appropriate Congressional committees to ensure that the IRS' practice of allowing oral responses to written joint filer requests complies with the intent of the law. According to National Headquarters Collection management, the IRS Office of Legislative Affairs recommended no contact be made with the

Letter Report: Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined

Congressional committees until the resolution of the Taxpayer Bill of Rights (TBOR) 2000.⁶

The current language in TBOR 2000 allows for taxpayers to make either oral or written requests for information. The bill, however, is silent concerning whether the IRS can provide oral responses. As such, passage of the TBOR 2000 legislation may not affect the requirements of 26 U.S.C. § 6103(e)(8).

IRS management believes that oral responses provide good customer service to taxpayers because the taxpayers obtain an answer immediately. In addition, if the taxpayer wants a written reply, the IRS will provide one.

Subsequent to our discussion draft report, the Office of Legislative Affairs contacted staff of the Joint Committee on Taxation, who stated that the IRS' practice of providing oral responses was acceptable.

At the time of this review, no contacts had been made with the Congressional committees. However, subsequent to the issuance of a discussion draft of this report in July 2000, the Office of Legislative Affairs contacted the staff of the Joint Committee on Taxation. The Office of Legislative Affairs stated that the Joint Committee on Taxation staff was aware of the IRS' practice of providing oral responses to taxpayers and advised Legislative Affairs that this practice was permissible, even though 26 U.S.C. § 6103(e)(8) requires that the disclosure be in writing.

The Internal Revenue Service Is Conducting a Study on the Volume of Joint Filer Requests

National Headquarters Collection management is now conducting a study to determine the volume of written joint filer requests received.

Based on a recommendation contained in our FY 1999 report, National Headquarters Collection and Customer Service management agreed to conduct separate analyses by January 2001 to determine the volume of written joint filer requests received. Collection management initiated their study in January 2000, with a planned completion date of

⁶ Taxpayer Bill of Rights 2000, H.R. 4163 (pending legislation).

Letter Report: Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined

June 2000. Based upon the results of their analysis, Collection management is planning to determine whether the number of requests warrants a centralized management control process.

Through May 2000 (5 months of data), Collection Field function personnel at 3 of the 6 district offices participating in the study identified 4 written joint filer requests. The other three districts did not receive any written joint filer requests during this period. None of the four requests specifically cited 26 U.S.C. § 6103(e)(8). The IRS provided a written response to one taxpayer and responded orally to the other three taxpayers.

We relied upon information provided by local Collection management to support that an oral response was provided in three of the cases and did not verify with the taxpayers that they received a response to their requests. We reviewed the four requests and determined that, in two of the cases reviewed, the taxpayer was provided the information requested. We could not make a determination for the remaining two cases because the information about the request or the response was either vague or not available for our review.

While Collection management had begun their analysis, National Headquarters Customer Service management had not yet initiated their joint filer study. Because of the low number of joint filer requests identified during the Collection study, Customer Service management stated that they do not believe another study would be productive from a cost/benefit standpoint.

Since the IRS is still working on the corrective actions in response to our FY 1999 report, no new recommendations are being made. However, until IRS management conducts a complete analysis of the volume of written joint filer requests received, they will not be able to determine whether a centralized management control process is warranted.

**Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined**

Management's Response: IRS management agreed with the 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. § 6103(e)(8) because both we and the IRS are still unable to readily identify written joint filer requests for review nationwide. In addition, the IRS has not changed its process for handling these types of requests since our FY 1999 audit.

The Office of Legislative Affairs stated that the Joint Committee on Taxation staff advised them that the IRS' practice of providing oral responses was permissible, even though 26 U.S.C. § 6103(e)(8) requires that the disclosure be in writing.

National Headquarters Collection management is conducting a joint filer study, but Customer Service management had not yet begun their study. Until IRS management conducts a complete analysis of the volume of written joint filer requests received, they will not be able to determine whether a centralized management control process is warranted.

**Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined**

Appendix I

Major Contributors to This Report

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

Nancy Nakamura, Director

Jeffrey Jones, Audit Manager

Peggy Anketell, Auditor

Theresa Berube, Auditor

Gwendolyn Green, Auditor

Don Martineau, Auditor

**Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined**

Appendix II

Report Distribution List

Deputy Commissioner Operations C:DO
Chief Communications and Liaison CL
Chief Operations Officer OP
Office of the Chief Counsel CC
National Taxpayer Advocate TA
Director, Governmental Liaison and Disclosure CL:GLD
Director, Legislative Affairs CL:LA
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Customer Service) OP:C
Assistant Commissioner (Examination) OP:EX
Office of Management Controls CFO:A:M
Director, Office of Program Evaluation and Risk Analysis M:O
Audit Liaisons:
 Assistant Commissioner (Collection) OP:CO
 Assistant Commissioner (Customer Service) OP:C
 Assistant Commissioner (Examination) OP:EX

Letter Report: Compliance With Statutory Requirements for the
Disclosure of Collection Information to Joint Filers
Cannot Be Determined

Appendix III

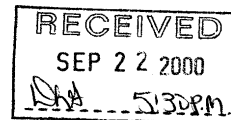
Management's Response to the Draft Report



COMMISSIONER

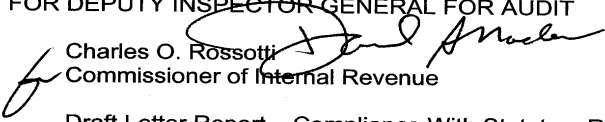
DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

September 22, 2000



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:


Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT:

Draft Letter Report – Compliance With Statutory Requirements
for the Disclosure of Collection Information to Joint Filers Cannot
Be Determined

Thank you for giving us the opportunity to review and comment on your draft letter report entitled "Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined" and your observations based on our compliance with the statutory requirements for responding to joint filer requests.

Overall, we agree with your observations. It is still our position that oral responses provide good customer service to taxpayers because taxpayers obtain an answer immediately.

As you are aware, subsequent to your review, discussions did take place between the staff of the Joint Committee on Taxation and the Internal Revenue Service's Office of Legislative Affairs. The Joint Committee staff was aware of the IRS practice of providing oral responses and felt that such practice was permissible notwithstanding statutory language to the effect that the disclosure must be in writing.

If you have any questions, please call Glenn Henderson, Director, Compliance, at (202) 927-5028.