



*Fiscal Year 2009 Statutory Review of
Disclosure of Collection Activity With
Respect to Joint Returns*

March 12, 2009

Reference Number: 2009-30-046

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.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

March 12, 2009

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
COMMISSIONER, WAGE AND INVESTMENT DIVISION

Michael R. Phillips

FROM: Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2009 Statutory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit # 200930008)

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) related to the disclosure of collection activities to joint filers. The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(B) to annually evaluate the IRS' compliance with the joint filer provisions of the law.

Impact on the Taxpayer

I.R.C. § 6103(e)(8) gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to request information regarding the IRS' efforts to collect delinquent taxes on their joint return liabilities. The IRS has implemented procedures for responding to requests from taxpayers concerning collection activity on their joint tax liabilities. We believe these procedures provide IRS employees sufficient guidance for handling these requests in accordance with the law.



Fiscal Year 2009 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Synopsis

IRS procedures provide employees with sufficient guidance for handling joint filer collection activity information requests. However, we could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written information requests from joint filers. IRS management information systems do not separately record or monitor joint filer requests, and there is no legal requirement for the IRS to do so. Further, we do not recommend the creation of a separate tracking system. Accordingly, we made no recommendations in this report.

Response

Although we made no recommendations in this report, we did provide IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report conclusions. Please contact me at (202) 622-6510 if you have questions or Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Table of Contents

BackgroundPage 1

Results of ReviewPage 3

 The Internal Revenue Manual Provides Employees Sufficient
 Guidance for Handling Joint Filer Collection Activity
 Information RequestsPage 3

 Compliance With Statutory Requirements for the Disclosure of
 Collection Activity With Respect to Jointly Filed Tax Returns
 Cannot Be Determined.....Page 4

Appendices

 Appendix I – Detailed Objective, Scope, and MethodologyPage 5

 Appendix II – Major Contributors to This ReportPage 6

 Appendix III – Report Distribution ListPage 7



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Abbreviations

I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service



Fiscal Year 2009 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

Background

The Taxpayer Bill of Rights 2¹ added Internal Revenue Code Section (I.R.C. §) 6103(e)(8), 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 Taxpayer Bill of Rights 2, 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).

The IRS Restructuring and Reform Act of 1998² added I.R.C. § 7803(d)(1)(B), which requires the Treasury Inspector General for Tax Administration to review and certify annually whether the IRS is complying with the requirements of I.R.C. § 6103(e)(8).

The Treasury Inspector General for Tax Administration is required to annually evaluate the IRS' compliance with 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 offices³ 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 and Wage and Investment Divisions⁴ decided not to develop a separate tracking system for joint filer information requests.

This review was performed in the office of the IRS Commissioner and the National Taxpayer Advocate in Washington, D.C.; the Small Business/Self-Employed Division Headquarters in New Carrollton, Maryland; and the Wage and Investment Division Headquarters in Atlanta, Georgia, during the period December 2008 through January 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions

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

² 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.).

³ Locations formerly known as district offices are now called Area Offices by the IRS.

⁴ The Small Business/Self-Employed and Wage and Investment Divisions were created by the reorganization of the IRS. Components of the former Collection and Customer Service Divisions were made a part of these Divisions.



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Results of Review

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

The provision of the Taxpayer Bill of Rights 2 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 Bill, 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 current collection status, and the amount collected to date.

The Internal Revenue Manual procedures also allow employees to provide both oral and written responses to taxpayers. 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 based upon I.R.C. § 6103(e)(7). The IRS believes oral responses provide good customer service to taxpayers because the taxpayers get an immediate answer. We believe these procedures provide IRS employees sufficient guidance for handling these requests in accordance with the law.



Fiscal Year 2009 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

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 for information on collection activities. As such, we could not determine whether the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to written requests from joint filers because of our inability to identify any joint filer requests received for information on collection activities. During this review, management from the Small Business/Self-Employed and Wage and Investment 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 legal requirement for the IRS to record or monitor cases involving these requests.

We do not recommend the creation of a separate tracking system and are making no recommendations in this report. This is the tenth 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).



Fiscal Year 2009 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

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) related to the disclosure of collection activities to joint filers. To accomplish our objective, we:

- I. Obtained confirmation from the Small Business/Self-Employed and Wage and Investment 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 Treasury Inspector General for Tax Administration personnel responsible for the Taxpayer Advocate Management Information System,¹ the Information Tracking System,² and the Performance and Results Information System³ to determine whether there is a system or process that tracks taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).
- III. 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 Treasury Inspector General for Tax Administration audit reports for the statutory Joint Filer Reviews to identify any corrective actions taken by the IRS.
 - B. Reviewed historical and current Internal Revenue Manual sections to identify any updates made in response to I.R.C. § 6103(e)(8).
 - C. Reviewed IRS.gov (the public IRS Internet site) and related IRS publications to identify how the IRS informs taxpayers of their rights to collection information on jointly filed tax returns under I.R.C. § 6103(e)(8).

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

² The Information Tracking System is an application used by the IRS to control and track information and correspondence.

³ The Performance and Results Information System is a management information system that provides the Treasury Inspector General for Tax Administration with the ability to manage complaints received and investigations initiated.



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl Aley, Director
Timothy F. Greiner, Audit Manager
Michael J. Della Ripa, Lead Auditor
Lynn Rudolph, Senior Auditor



*Fiscal Year 2009 Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns*

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Deputy Commissioner, Wage and Investment Division SE:W
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 Liaison: Senior Operations Advisor, Wage and Investment Division SE:W:S