

**Fiscal Year 2004
Statutory Review of Restrictions on
Directly Contacting Taxpayers**

February 2004

Reference Number: 2004-40-059

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

February 24, 2004

MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT

Gordon C. Milbourn III

FROM: Gordon C. Milbourn III
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Fiscal Year 2004 Statutory Review of
Restrictions on Directly Contacting Taxpayers
(Audit # 200440002)

This report presents the results of our review to determine if the Internal Revenue Service (IRS) complied with legal guidelines dealing with directly contacting taxpayers and their representatives as set forth in Internal Revenue Code Sections (I.R.C. §§) 7521(b)(2) and (c) (2000).

In summary, we could not determine if the IRS fully complied with I.R.C. §§ 7521(b)(2) and (c) requirements when directly contacting taxpayers and their representatives. This is the sixth year in which we have reported our inability to give an opinion on the IRS' compliance with the restrictions of I.R.C §§ 7521(b)(2) and (c).

The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(A)(ii) (2000) to annually evaluate the IRS' compliance with the direct contact provisions of the law. IRS management information systems do not separately record or monitor direct contact requirements, and the 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.

Management's Response: IRS management has reviewed the draft report and provided their concurrence with its contents via email. However, since there were no recommendations requiring a formal response, the IRS has agreed that the report will be issued with no formal written response.

Copies of this report are also being sent to IRS managers affected by the report results. Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips,

Assistant Inspector General for Audit (Wage and Investment Income Programs), at
(202) 927-0597.

**Fiscal Year 2004 Statutory Review of Restrictions
on Directly Contacting Taxpayers**

Table of Contents

Background	Page 1
Compliance With Statutory Requirements for Restrictions on Directly Contacting Taxpayers Cannot Be Determined	Page 2
Appendix I – Detailed Objective, Scope, and Methodology	Page 3
Appendix II – Major Contributors to This Report.....	Page 4
Appendix III – Report Distribution List	Page 5

Fiscal Year 2004 Statutory Review of Restrictions on Directly Contacting Taxpayers

Background

The Omnibus Taxpayer Bill of Rights¹ created a number of safeguards to protect taxpayers being interviewed by an Internal Revenue Service (IRS) employee as part of an examination or collection action. Specifically, IRS employees are required to:

- Stop a taxpayer interview (unless the interview is required by court order) whenever a taxpayer requests to consult with a representative (someone who is permitted to represent taxpayers before the IRS).
- Obtain their immediate supervisor's approval to contact the taxpayer instead of the representative if the representative is responsible for unreasonably delaying the completion of an examination or collection action.

The provisions were created to protect the rights of taxpayers who are interviewed by an IRS employee as part of an examination or collection action. A taxpayer can file a civil suit against the IRS if an IRS employee intentionally disregards these provisions by denying a taxpayer the right to appropriate representation.

The Treasury Inspector General for Tax Administration (TIGTA) is required under Internal Revenue Code Section (I.R.C. §) 7803(d)(1)(A)(ii) (2000) to annually evaluate the IRS' compliance with the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c) (2000).

This review was performed at the IRS National Headquarters in Washington, D.C., in the Small Business/Self-Employed Division and the Office of the National Taxpayer Advocate, during the period October 2003 through January 2004. 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.

¹ Pub. L. No. 100-647, 102 Stat. 3730 (1988) (codified as amended in scattered sections of 5 U.S.C. and 26 U.S.C.).

**Fiscal Year 2004 Statutory Review of Restrictions
on Directly Contacting Taxpayers**

**Compliance With Statutory
Requirements for Restrictions on
Directly Contacting Taxpayers
Cannot Be Determined**

We could not determine whether IRS employees followed proper procedures to stop an interview if the taxpayer requested to consult with a representative. Neither the IRS nor we could readily identify cases in which the taxpayer requested a representative or the IRS contacted the taxpayer directly and bypassed the representative.

Current IRS management information systems do not separately record or monitor cases in which taxpayers had requested to consult with a representative or in which IRS employees bypassed taxpayer representatives and contacted the taxpayers directly. In addition, there is no legal requirement for the IRS to develop a separate system that records or monitors cases involving these two procedures.

Taxpayer complaints that allege IRS employees bypassed their representatives and contacted them directly are tracked by the TIGTA Office of Investigations (OI). The TIGTA OI closed six direct contact complaint and investigation cases between January and November 2003. Our review of these cases showed that, in all six cases, the IRS employees did not violate the direct contact provisions of the I.R.C.

As a result, we do not recommend the creation of a separate tracking system and are making no recommendations in this report. This is the sixth year in which we have reported our inability to give an opinion on the IRS' compliance with the I.R.C. restrictions on direct contact.

Management's Response: A Small Business/Self-Employed Division official concurred with the conclusions detailed in our draft report, but declined the opportunity to provide a formal written response.

**Fiscal Year 2004 Statutory Review of Restrictions
on Directly Contacting Taxpayers**

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine if the Internal Revenue Service (IRS) complied with legal guidelines dealing with directly contacting taxpayers and their representatives as set forth in Internal Revenue Code Sections 7521(b)(2) and (c) (2000). To accomplish this objective, we:

- I. Interviewed an executive in the Small Business/Self-Employed Division to determine if the IRS has implemented or plans to implement a system to track cases in which taxpayers have requested to consult with a representative or in which an IRS employee bypassed a representative.

- II. Interviewed various IRS and Treasury Inspector General for Tax Administration (TIGTA) personnel responsible for the Taxpayer Advocate Management Information System (TAMIS),¹ the Executive Control Management System (ECMS),² and the Performance and Results Information System (PARIS)³ to determine if there is a system or a plan for a system to track taxpayer complaints relating to violations of the direct contact provisions of the law.
 - A. Identified six direct contact cases (two complaints and four investigations) closed by the TIGTA Office of Investigations (OI) during the period January 28, 2003, through November 24, 2003.

 - B. Obtained and reviewed the closed TIGTA OI complaint and investigation files to determine their validity and what actions were taken by the IRS as a result of the complaints and investigations.

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

² The ECMS is an application used by the IRS to assign, control, and track information and correspondence.

³ The PARIS 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.

**Fiscal Year 2004 Statutory Review of Restrictions
on Directly Contacting Taxpayers**

Appendix II

Major Contributors to This Report

Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Mary V. Baker, Director

Bryce Kislner, Audit Manager

Kristi Larson, Senior Auditor

Sylvia Sloan-Copeland, Auditor

**Fiscal Year 2004 Statutory Review of Restrictions
on Directly Contacting Taxpayers**

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Large and Mid-Size Business Division SE:LM
Commissioner, Small Business/Self-Employed Division SE:S
Commissioner, Tax Exempt and Government Entities Division SE:T
Commissioner, Wage and Investment Division SE:W
Director, Communications and Liaison, National Taxpayer Advocate TA:CCL
Director, Communications and Liaison, Small Business/Self-Employed Division SE:S:MS:CL
Director, Compliance, Small Business/Self-Employed Division SE:S:C
Director, Compliance, Wage and Investment Division SE:W:CP
Director, Strategy and Finance, Wage and Investment Division SE:W:S
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 Management Controls OS:CFO:AR:M
Audit Liaisons:
 Chief, Customer Liaison, Small Business/Self-Employed Division SE:S:COM
 Director, Communications and Liaison, National Taxpayer Advocate TA:CCL
 GAO/TIGTA Liaison, Wage and Investment Division SE:W:S:PA