



*Fiscal Year 2012*  
*Statutory Review of Restrictions*  
*on Directly Contacting Taxpayers*

**September 4, 2012**

**Reference Number: 2012-30-089**

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.

**Redaction Legend:**

1 = Tax Return/Return Information

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## HIGHLIGHTS

### FISCAL YEAR 2012 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS

## Highlights

**Final Report issued on  
September 4, 2012**

Highlights of Reference Number: 2012-30-089 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

#### IMPACT ON TAXPAYERS

IRS employees are required to stop an interview if the taxpayer requests to consult with a representative and may not bypass a representative without supervisory approval. Between October 2010 and September 2011, TIGTA's Office of Investigations closed 19 direct contact complaints involving IRS employees, of which eight were disciplined or counseled for their actions by IRS management officials.

#### WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually report on the IRS's compliance with Internal Revenue Code Sections 7521(b)(2) and (c). The overall objective of this audit was to determine whether the IRS complied with the legal guidelines addressing the direct contact of taxpayers and their representatives.

#### WHAT TIGTA FOUND

The IRS has a number of policies and procedures in place to help ensure taxpayers are afforded the right to designate a qualified representative to act on their behalf in dealing with IRS personnel in a variety of tax matters. However, TIGTA reviewed a statistical sample of 73 of 25,264 Small Business/Self-Employed Division closed field collection investigations and found that revenue officers were not always involving representatives appropriately in some key actions.

In the sample of 73 cases, TIGTA found that 14 revenue officers deviated from procedures by: 1) contacting the taxpayer directly, instead

of the authorized representative, on the initial or subsequent contact in the collection investigation, 2) not sending copies of taxpayer correspondence to the authorized representative, or 3) not allowing enough time for the taxpayer to obtain a representative. In addition, little documentation was found in managerial reviews indicating that managers checked to ensure revenue officers were: 1) involving representatives in all case actions, 2) providing representatives a copy of all original correspondence sent to taxpayers, and 3) allowing taxpayers sufficient time to obtain representation.

Although none of the taxpayers in the 14 cases formally complained to the IRS or to TIGTA, the deviations can negatively affect the ability of taxpayers to obtain appropriate and effective representation during collection investigations. Moreover, the deviations can increase the risk of taxpayers seeking monetary damages from the IRS if its personnel are intentionally disregarding the direct contact provisions of the Internal Revenue Code.

#### WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Field Collection, Small Business/Self-Employed Division, take steps to provide greater assurance that the existing procedures designed to afford taxpayers their right to appropriate and effective representation are followed during the field collection process.

In their response to the report, IRS officials agreed with the recommendation and plan to take corrective actions. Specifically, the IRS plans to issue a memorandum reinforcing the need for Collection Field function personnel to follow the procedures and clarify the Internal Revenue Manual to include guidance for managers emphasizing the need to review for adherence to the procedures.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 4, 2012

**MEMORANDUM FOR** COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED  
DIVISION

**FROM:** Michael E. McKenney  
Acting Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2012 Statutory Review of Restrictions  
on Directly Contacting Taxpayers (Audit # 201230007)

This report presents the results of our review to determine if the Internal Revenue Service complied with legal guidelines addressing the direct contact of taxpayers and their representatives as set forth in Internal Revenue Code Sections 7521(b)(2) and (c). The Treasury Inspector General for Tax Administration is statutorily required to conduct this audit. This audit is conducted as part of our Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Management's complete response to the draft report is included as Appendix VII.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendation. Please contact me at (202) 622-6510 if you have questions or Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (213) 894-4470 (Ext.128).



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*Abbreviations*

ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
POA	Power of Attorney
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration



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### *Background*

Internal Revenue Service (IRS) records show that, in Fiscal Year 2011, nearly 1.8 million individual taxpayers exercised their right to grant power of attorney (POA) to an individual to act on their behalf in dealing with the IRS in a variety of tax matters. These tax matters could have included preparing and filing documents for the taxpayer, communicating and corresponding with the IRS for the taxpayer, and representing taxpayers during an audit or the collection process. Qualified representatives are typically required to be attorneys, certified public accountants, or enrolled agents, although other individuals can represent taxpayers before the IRS under certain circumstances. To designate POA authority to a representative, taxpayers file Form 2848, *Power of Attorney and Declaration of Representative*, with the IRS. Once received and validated, the IRS records the POA in its Centralized Authorization File<sup>1</sup> system, where it is linked to other automated information systems that are accessed and used by IRS personnel to identify authorized representatives.

Identifying the authorized representative during a tax matter is critical for IRS personnel because the Internal Revenue Code (I.R.C.) prohibits disclosure of tax return information to third parties unless the taxpayer has authorized the IRS to make the disclosure. In addition, the direct contact provisions of I.R.C. Section (§) 7521 enacted in 1988 as part of the Omnibus Taxpayer Bill of Rights<sup>2</sup> generally prohibit IRS personnel from bypassing a qualified representative once a taxpayer authorizes one to act on his or her behalf and informs the IRS of that authorization. The direct contact provisions also require IRS personnel to:

- Stop a taxpayer interview whenever a taxpayer requests to consult with a representative.
- 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 audit or investigation.

Congress, through the IRS Restructuring and Reform Act of 1998,<sup>3</sup> directed the IRS to revise Publication 1, *Your Rights as a Taxpayer*, to better inform taxpayers of these rights. In addition, this act requires the Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate the IRS's compliance with the direct contact provisions.

A taxpayer can file a civil suit seeking monetary damages against the IRS if an IRS employee intentionally disregards these provisions by denying a taxpayer the right to appropriate representation.

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<sup>1</sup> See Appendix VI for a glossary of terms.

<sup>2</sup> 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.).

<sup>3</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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As reported in prior years,<sup>4</sup> neither we nor the IRS know with any degree of preciseness how well the IRS is complying with direct contact provisions because its management information systems are not capable of readily identifying situations where a taxpayer is denied the right to appropriate representation. However, taxpayers' complaints that allege IRS employees bypassed their representatives and contacted them directly are tracked by the TIGTA Office of Investigations on the Performance and Results Information System. During Fiscal Year 2011, the Office of Investigations closed 19 direct contact complaints involving IRS employees, of which eight were disciplined or counseled for their actions by IRS management officials.<sup>5</sup>

This review was performed at the IRS National Headquarters in the offices of the Commissioner and the National Taxpayer Advocate in Washington, D.C., and the Small Business/Self-Employed (SB/SE) Division Headquarters in New Carrollton, Maryland, during the period September 2011 through April 2012. 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 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.

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<sup>4</sup> See Appendix V for a list of previous audit reports related to this review.

<sup>5</sup> Revenue officers were involved in 12 of the 19 complaints and seven of the eight employees disciplined or counseled.



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## *Results of Review*

The IRS has a number of policies and procedures in place to help ensure taxpayers are afforded the right to designate a qualified representative to act on their behalf in dealing with IRS personnel in a variety of tax matters. However, we found that revenue officers are not always involving representatives in some key actions, which may be negatively affecting the ability of taxpayers to obtain appropriate and effective representation during the collection process.

### ***An Array of Internal Controls Help Ensure Compliance With the Direct Contact Provisions of the Internal Revenue Code***

Ultimately, the IRS relies on its examiners and collectors to properly consider and protect taxpayer rights when conducting audits and taking collection actions. To assist revenue officers in meeting these responsibilities during the collection process, the IRS has an array of policies, procedures, and techniques (internal controls) that are in line with the Government Accountability Office's *Standards for Internal Control in the Federal Government*.<sup>6</sup>

The IRS's mission statement and supporting policy statements provide guidance nationwide to IRS compliance and other personnel who have contact with taxpayers. Figure 1 provides an example of IRS Policy Statement 5-2, which contains the core principles that underscore the importance of protecting taxpayer rights as well as providing the public with quality, courteous, and effective assistance in collecting unpaid taxes.

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<sup>6</sup> Formerly the General Accounting Office, GAO/AIMD-00-21.3.1 (Nov. 1999).





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**Figure 1: Core Principles for Collecting Unpaid Taxes**

<b>Excerpt From IRS Policy Statement 5-2</b>	
<b>Principles</b>	<b>Description</b>
<b><i>OVERARCHING PRINCIPLES</i></b>	All our decisions about collecting must be guided by these principles. To the extent that they are, we will succeed in our mission.
<p style="text-align: center;"><b><i>SERVICE AND ASSISTANCE</i></b></p> <p>All taxpayers are entitled to courteous, responsive, and effective service and assistance in all their dealings with the Service.</p>	We will actively assist taxpayers who try to comply with the law and work to continually improve the quality of our systems and service to meet the needs of our customers. All taxpayers, whether delinquent or fully compliant, are entitled to prompt and professional service whenever they deal with Service employees.
<p style="text-align: center;"><b><i>TAXPAYER RIGHTS</i></b></p> <p>We will observe taxpayers' rights, including their rights to privacy and to fair and courteous treatment.</p>	This affirms our commitment to observe both the spirit as well as the letter of all legal requirements, including the Taxpayer Bill of Rights I and II and the IRS Restructuring and Reform Act of 1998. Taxpayers will be protected from unauthorized disclosure of information.
<p style="text-align: center;"><b><i>COMPLIANCE</i></b></p> <p>The public trust requires us to ensure that all taxpayers promptly file their returns and pay the proper amount of tax, regardless of the amount owed.</p>	The public as a whole is our customer, not just delinquent taxpayers. Our customers expect us to promote voluntary compliance by ensuring that all promptly pay their fair share.
<p style="text-align: center;"><b><i>CASE RESOLUTION</i></b></p> <p>While we will actively assist taxpayers to comply, we will also take appropriate enforcement actions when warranted to resolve the delinquency. To resolve a case, good judgment is needed to make sound decisions on the appropriate action needed.</p>	All taxpayers are required to pay by the due date of the return. From a broad range of collecting tools, employees will select the one(s) most appropriate for each case. Case resolution, including actions such as lien, levy, seizure of assets, installment agreement, offer in compromise, substitute for return, summons, and IRC 6020(b), are important elements of an effective compliance program. When it is appropriate to take such actions, it should be done promptly, yet judiciously, and based on the facts of each case.

Source: Excerpt from IRS Policy Statement 5-2 – Collecting Principles.

These core principles are critical to setting the appropriate tone for agency activities and interactions with taxpayers and their representatives, especially because documentation of the interactions is controlled by the IRS employee. To supplement agency-level mission and policy



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statements, the IRS uses, and periodically updates, the Internal Revenue Manual (IRM) and numerous taxpayer publications. Both the IRM and taxpayer publications are available online and are designed to provide guidance nationwide to IRS personnel and taxpayers.

### **The IRM and taxpayer publications are important control components**

From a control perspective, both the IRM and taxpayer publications are important because they provide detailed explanations and instructions of the statutory, business, and administrative procedures the IRS follows in administering the tax laws, including the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c). For example, the IRS uses Publication 1 as the main document to keep taxpayers informed of their rights and to explain the audit, collection, appeals, and refund processes. Publication 1 also includes a contact number for the TIGTA, where suspected violations of the direct contact provisions and other potential misconduct or abuse by IRS employees can be reported. In addition, Publication 1 includes the following information concerning taxpayers' rights to be represented at interviews with the IRS and to suspend an interview pursuant to I.R.C. § 7521(b)(2).

*You may either represent yourself or, with proper written authorization, have someone else represent you in your place. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. If you are in an interview and ask to consult such a person, then we must stop and reschedule the interview in most cases.*

The IRS has also included information on these rights in other publications:

- Publication 17, *Your Federal Income Tax*.
- Publication 334, *Tax Guide for Small Business*.
- Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.
- Publication 3498, *The Examination Process*.

In addition, the IRS uses Publication 947, *Practice Before the IRS and Power of Attorney*, to inform taxpayers of their representatives' responsibilities and to notify taxpayers that the IRS has the authority to bypass representatives that are uncooperative. Specifically, Publication 947 states, "After a valid power of attorney is filed, the IRS will recognize your representative. However, if it appears the representative is responsible for unreasonably delaying or hindering the prompt disposition of an IRS matter by failing to furnish, after repeated requests, non-privileged information, the IRS can contact you directly."

### **A number of internal controls are also in place at the operational level**

At the operational level, the first-line managers over revenue officers are a key control because they are responsible for ensuring that the personnel they supervise follow procedures and that their work meets acceptable standards. To assist managers in ensuring procedures are followed



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and standards are met, the IRM requires managers to conduct reviews over the work of the personnel they supervise, both while it is in process and after it is completed. These control techniques, as we have previously reported, help identify problems so prompt corrective actions can be taken.

In response to our reports over the years, the IRS has taken a number of steps to reinforce upon first-line managers the need to ensure the personnel they supervise are adhering to the direct contact provisions. For example, the SB/SE Division issued a memorandum to its first-line managers in Fiscal Years 2001 and 2002 directing them to “take whatever steps are necessary (including discussion in group meetings, case reviews, workload reviews, on-the-job visits, and taxpayer/POA [Power of Attorney] inquiries) to ensure these requirements [the requirements mandated by I.R.C. §§ 7521(b)(2) and (c)] are understood and followed by employees.” In August 2006, April 2010, and May 2010, the IRS updated the IRM<sup>7</sup> to include specific directions for SB/SE Division managers in its Collection and Examination functions on how to ensure compliance with the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c). The guidance provided in April 2010 directed that initial contact for audits must be made with an authorized representative.

Besides first-line management reviews, quality measurement staffs annually review hundreds of closed enforcement cases to measure and evaluate the quality of audits and collection actions, communicate areas of concern to upper management, identify potential training needs, and improve work processes. While these reviews do not specifically address adherence to the direct contact provisions, they do assess the degree to which enforcement personnel are complying with procedures for protecting taxpayer rights. For Fiscal Year 2011, the SB/SE Division’s quality measurement staff reported that revenue officers complied with the procedures for protecting taxpayer rights in 85 percent of the cases reviewed for the Collection Field function.

In addition to reviews by first-line managers and the quality measurement staffs, mid-level managers may evaluate ongoing work in open audits and collection cases during their operational reviews. Operational reviews are required to be performed at least once a year to ensure work is being done in conformance with procedures. These processes serve as a quality control by identifying managerial, technical, and procedural problems and providing a basis for corrective actions.

### ***Managers Need to Provide Greater Assurance That Revenue Officers Are Involving Taxpayer Representatives in All Collection Actions***

We reviewed a statistical sample of 73 of the 25,264 Collection Field function cases that were closed between April 1 and September 30, 2011, for taxpayers with a POA. We found in 14 (19.2 percent) of the 73 cases that the revenue officer did not follow the procedures that help

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<sup>7</sup> IRM §§ 1.4.50.5.12 (Jun. 16, 2011) and 1.4.40.3.8.2 (May 19, 2010).



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ensure compliance with the direct contact provisions of the I.R.C. When the sample results are projected to the population, we estimate that the deviations may have negatively affected the ability of 4,845 taxpayers<sup>8</sup> to obtain appropriate and effective representation. In considering the significance of the deviations, it is important to recognize that the representative was involved in the vast majority of the contacts the revenue officer made in the cases we reviewed. Nevertheless, the deviations still leave the IRS vulnerable to a greater risk of taxpayers seeking to recover monetary damages from the IRS if they believe its personnel are intentionally disregarding the direct contact provisions of the I.R.C.

During our case reviews, we evaluated the documentation recorded systemically and by revenue officers in the Integrated Collection System (ICS) to make our judgments about each case. We also compared the POA information in the ICS to the POA information the IRS maintains in each taxpayer account on the Integrated Data Retrieval System (IDRS) and then categorized the deviations found in the 14 cases into the following four areas.<sup>9</sup>

1. Collection investigations were initiated directly with the taxpayer instead of with the representative designated on the POA in the ICS or IDRS (seven cases). In three of these cases, the revenue officer made on-site visits to the taxpayers' residences without involving the representatives and left contact information and IRS publications for the taxpayers in sealed envelopes with neighbors or relatives.
2. During the collection investigation, contact was made directly with the taxpayer without involving the representative designated on the POA in the ICS or IDRS (five cases). For example, \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*
3. \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\* . Revenue officer procedures specify that taxpayers should be allowed at least 10 business days to secure representation once a request is made to consult with a representative. \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\* .
4. Copies of collection letters and other correspondence were not provided to the representative designated on the POA in the ICS or IDRS (four cases). The IRS policy is to send all original correspondence to the taxpayer and provide a copy to the taxpayer's authorized representative unless the taxpayer has indicated otherwise on Form 2848.  
\*\*\*\*\*1\*\*\*\*\*

<sup>8</sup> We are 95 percent confident that the number of taxpayers in the population that may have been negatively affected will be between 2,551 and 7,139.

<sup>9</sup> The taxpayers in these 14 cases did not formally complain to the IRS or to the TIGTA about the revenue officers' actions.



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\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

In addition to reviewing the ICS and the IDRS, we evaluated a judgmental sample<sup>10</sup> of 37 operational reviews that mid-level managers completed on SB/SE Division revenue officer groups, along with the performance feedback and guidance first-line managers provided to the revenue officers involved in the 14 cases above. Our results show that general taxpayer rights were addressed in most of the 37 operational reviews by mid-level managers. However, the importance of adhering to the procedures governing the direct contact provisions of the I.R.C. was addressed in only four of the 37 mid-level reviews and by only one of the 14 first-line managers through performance feedback.

For the 14 first-line managers, we requested the feedback and guidance they had provided to the revenue officers through performance evaluations, case reviews, workload reviews, group meetings, and field visits that addressed the importance of compliance with the direct contact procedures. The IRS provided documentation from one manager and informed us that there was no documentation for the other 13 managers that addressed the procedures on direct contact provisions.

Consequently, we found little documentation in the reviews indicating that managers assessed whether revenue officers were: 1) involving representatives in all case actions, 2) providing representatives a copy of all original correspondence sent to taxpayers, and 3) allowing taxpayers sufficient time to obtain representation. The TIGTA believes that managerial reviews over revenue officers' adherence to IRS procedures governing the direct contact provisions, and documentation of such reviews, are important and need to be enhanced because they are the IRS's primary quality control mechanism.

## ***Recommendation***

**Recommendation 1:** The Director, Field Collection, SB/SE Division, should take steps to provide greater assurance that the procedures designed to afford taxpayers their right to appropriate and effective representation are followed during the field collection process.

**Management's Response:** IRS management agreed with this recommendation. The Director, Field Collection, SB/SE Division, will issue a memorandum reinforcing the need for Collection Field function personnel to follow procedures and afford taxpayers their right to appropriate and effective representation throughout the field collection process. In addition, the IRM will be clarified to include guidance that management should review for adherence to these procedures when conducting case reviews.

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<sup>10</sup> A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.



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## Appendix I

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

The overall objective of this review was to determine whether the IRS complied with legal guidelines addressing the direct contact of taxpayers and their representatives as set forth in I.R.C. §§ 7521(b)(2) and (c). To accomplish this objective, we:

- I. Determined if an IRS system and/or process has been implemented since our last review to identify those cases where taxpayers have requested to consult with a representative or where IRS employees bypassed a representative and directly contacted the taxpayer.
  - A. Interviewed IRS management personnel in the SB/SE Division to identify whether the IRS has implemented a system to identify those cases where taxpayers have requested to consult with a representative or where IRS employees bypassed a representative and directly contacted the taxpayer.
  - B. Reviewed a statistically valid random sample of 73 of 25,264 individual SB/SE Division field collection cases that were closed between April 1 and September 30, 2011, for taxpayers who had a POA during the collection process to determine whether examiners were complying with the requirements of I.R.C. §§ 7521(b)(2) and (c). We selected a random sample because we wanted to project the number of cases with errors to the population.
    - We extracted the data from the ICS<sup>1</sup> files maintained on the TIGTA's Data Center Warehouse.
    - We validated the field collection cases by comparing the sampled records to online data and also included the comparison of POA information recorded on the ICS and on the IDRS.
    - Our sample size was determined using a 95 percent confidence level,  $\pm$  5 percent precision, and 5 percent expected error rate.
  - C. Evaluated a judgmental sample<sup>2</sup> of 37 operational reviews mid-level managers performed over SB/SE Division's revenue officer groups along with the performance feedback and guidance first-line managers provided to the 14 revenue officers that had not followed the procedures that help ensure compliance with the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c). Judgmental samples were used because we were trying to determine whether managers were addressing the direct contact

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<sup>1</sup> See Appendix VI for a glossary of terms.

<sup>2</sup> A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.



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- provisions of the I.R.C. in their reviews and had not intended to project results to the populations.
- II. Determined if any systems or processes have been modified since our last review to track taxpayer complaints relating to IRS violations of I.R.C. §§ 7521(b)(2) and (c).
- A. Interviewed IRS personnel responsible for the Taxpayer Advocate Management Information System and the e-trak System to determine if these two systems have been modified to track taxpayer complaints relating to IRS violations of I.R.C. §§ 7521(b)(2) and (c).
  - B. Interviewed IRS management personnel from the Employee Conduct and Compliance Office to determine if the system (*i.e.*, e-trak) they are using is capable of tracking and reporting the direct contact complaints/allegation received by the Employee Conduct and Compliance Office.
  - C. Interviewed IRS management personnel in the Taxpayer Advocate Service to determine if the IRS plans to implement a system or process for tracking complaints arising from violations of I.R.C. §§ 7521(b)(2) and (c).
  - D. Reviewed the TIGTA Office of Investigation's complaint and investigation cases that were closed in Fiscal Year 2011 and tracked on the Performance and Results Information System to determine the validity of taxpayer complaints and what actions the IRS had taken as a result, as well as the potential number of taxpayers who may have had their rights and entitlements infringed upon.
- III. Obtained and reviewed information on the actions taken by the IRS in response to I.R.C. §§ 7521(b)(2) and (c) to determine the impact of this code section on IRS programs.
- A. Reviewed the prior TIGTA reports to identify recommendations and the IRS's planned corrective action.
  - B. Conducted searches on the IRS intranet to identify guidance to IRS employees for meeting the direct contact provisions and determine the impact on the IRS programs.
  - C. Researched IRS.gov to identify how the IRS informs taxpayers of the IRS's prohibition on directly contacting taxpayers and evaluated whether it provides adequate guidance for taxpayers and their representatives.



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**Internal controls methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective:

- The agency-level internal control activities:
  - a. The IRS's mission statement and supporting policy statements along with the IRM guidelines provide guidance to IRS employees to ensure compliance with direct contact provisions.
  - b. Numerous publications keep taxpayers informed of their rights.
- The operational-level internal control activities: the first-line managers are responsible for ensuring the personnel they supervise follow procedures and that their work meets acceptable standards. They will need to review the work of the personnel they supervise, both while it is in process and after it is completed, which will help identify problems so prompt corrective actions, if needed, can be taken.





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**Appendix II**

*Major Contributors to This Report*

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Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)

Alan Lund, Audit Manager

Jean Kao, Lead Auditor

Debra Mason, Senior Auditor

Joseph L. Katz, Ph.D., Contractor, Statistical Sampling Consultant



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**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  
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC  
Director, Communications, Liaison and Disclosure, Small Business/Self-Employed Division  
SE:S:CSO  
Director, Examination, Small Business/Self-Employed Division SE:S:E  
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:  
    Commissioner, Small Business/Self-Employed Division SE:S  
    National Taxpayer Advocate TA



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## Appendix IV

### *Outcome Measure*

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 4,845 taxpayers where the revenue officers may not have appropriately involved the POA during the collection investigation (see page 6).

#### **Methodology Used to Measure the Reported Benefit:**

We calculated our outcome for the field collection exception cases using the following methodology:

- We selected a statistical sample of 73 of the 25,264 Collection Field function cases that were closed between April 1 and September 30, 2011, for taxpayers with a POA. Our sample size was determined using a 95 percent confidence level,  $\pm 5$  percent precision, and 5 percent expected error rate.
- We identified 14 cases where the revenue officer did not follow the procedures that help ensure compliance with the direct contact provisions of I.R.C. §§ 7521(b)(2) and (c).
- Based on our sample error rate (14/73), we calculated the number of taxpayers in the population that may have had their ability to obtain appropriate and effective representation negatively affected:  $[25,264 \times (14/73) = 4,845]$ .<sup>1</sup>

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<sup>1</sup> We are 95 percent confident that the number of taxpayers in the population that may have been negatively affected will be between 2,551 and 7,139.



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*Fiscal Year 2012 Statutory Review of  
Restrictions on Directly Contacting Taxpayers*

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**Appendix V**

*Previous Audit Reports Related to  
This Statutory Review*

TIGTA, Ref. No. 1999-10-076, *The Internal Revenue Service Needs to Enhance Guidance on and Monitoring of Compliance With Procedures for Directly Contacting Taxpayers and Their Representatives* (Sept. 1999).

TIGTA, Ref. No. 2000-10-132, *Letter Report: Improvements Have Been Implemented for Directly Contacting Taxpayers and Their Representatives* (Sept. 2000).

TIGTA, Ref. No. 2011-10-116, *Letter Report: The Internal Revenue Service Has Not Implemented a Process to Monitor Compliance With Direct Contact Provisions* (Jul. 2001).

TIGTA, Ref. No. 2002-40-177, *The Internal Revenue Service Cannot Monitor Its Compliance With the Direct Contact Provisions* (Sept. 2002).

TIGTA, Ref. No. 2003-40-131, *Fiscal Year 2003 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Jun. 2003).

TIGTA, Ref. No. 2004-40-059, *Fiscal Year 2004 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Feb. 2004).

TIGTA, Ref. No. 2005-40-040, *Fiscal Year 2005 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Feb. 2005).

TIGTA, Ref. No. 2006-40-136, *Fiscal Year 2006 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Aug. 2006).

TIGTA, Ref. No. 2007-40-118, *Fiscal Year 2007 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Jul. 2007).

TIGTA, Ref. No. 2008-40-090, *Fiscal Year 2008 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Mar. 2008).

TIGTA, Ref. No. 2009-30-054, *Fiscal Year 2009 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Mar. 2009).

TIGTA, Ref. No. 2010-30-060, *Fiscal Year 2010 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Jun. 2010).

TIGTA, Ref. No. 2011-30-090, *Fiscal Year 2011 Statutory Review of Restrictions on Directly Contacting Taxpayers* (Sept. 2011).



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*Fiscal Year 2012 Statutory Review of  
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## Appendix VI

### *Glossary of Terms*

**Centralized Authorization File** – A computerized system of records which houses authorization information from both powers of attorney and tax information authorizations.

**Collection Field function** – The IRS function consisting of revenue officers who handle personal contacts with taxpayers to collect delinquent accounts or secure unfiled returns.

**e-trak System** – An IRS web-based data tracking application that enables meaningful data management, tracking, retrieval, and reporting.

**Integrated Collection System (ICS)** – An information management system designed to improve revenue collections by providing revenue officers access to the most current taxpayer information, while in the field, using laptop computers for quicker case resolution and improved customer service.

**Integrated Data Retrieval System (IDRS)** – IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

**Performance and Results Information System** – A management information system that provides the TIGTA with the ability to manage complaints received and investigations initiated.

**Revenue Officer** – A Collection Field function employee who contacts taxpayers to resolve collection matters that have not been resolved through previous notices or phone calls.

**Taxpayer Advocate Management Information System** – A database of the Taxpayer Advocate Service that is exclusively dedicated to the recordation, control, and processing of Taxpayer Advocate Service taxpayer cases and to the capturing and analysis of core tax issues, laws, policies, and internal IRS functional processes that are the sources of significant taxpayer hardship and other critical problems.



*Fiscal Year 2012 Statutory Review of  
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**Appendix VII**

*Management's Response to the Draft Report*

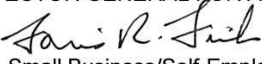


COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

**JUL 26 2012**

MEMORANDUM FOR MICHAEL R. PHILLIPS  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Faris R. Fink   
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2012 Statutory Review  
of Restrictions on Directly Contacting Taxpayers  
(Audit # 201230007)

Thank you for the opportunity to review your draft report titled: "Fiscal Year 2012 Statutory Review of Restrictions on Directly Contacting Taxpayers." The IRS agrees with your findings and recommendation. We appreciate your acknowledgement of the steps we have already taken and the measures we have in place to ensure that taxpayer rights are observed with respect to restrictions on contacting taxpayers directly when a representative is on record.

Attached is a detailed response outlining our corrective action.

If you have any questions, please contact me, or a member of your staff may contact Bobby Hunt, Director, Field Collection, SB/SE at 202-283-7660, or Scott Reisher, Director, Collection Policy, ECS, SB/SE at 202-283-7361.

Attachment



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*Fiscal Year 2012 Statutory Review of  
Restrictions on Directly Contacting Taxpayers*

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Attachment

**RECOMMENDATION 1:**

The Director, Field Collection, SB/SE Division, should take steps to provide greater assurances that the procedures designed to afford taxpayers their right to appropriate and effective representation are followed during the field collection process.

**CORRECTIVE ACTION:**

We will issue a memorandum reinforcing the need for Field Collection personnel to follow procedures and afford taxpayers their right to appropriate and effective representation throughout the field collection process. In addition, the IRM will be clarified to include guidance that management should review for adherence to these procedures when conducting case reviews.

**IMPLEMENTATION DATE:**

October 15, 2012

**RESPONSIBLE OFFICIAL(S):**

The Director, Field Collection, Small Business/Self-Employed Division (SB/SE)

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.