



*The Office of Disclosure Continues to
Improve Upon Its Responses to Taxpayers'
Requests Under the Freedom of
Information Act*

September 4, 2009

Reference Number: 2009-30-115

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

September 4, 2009

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Nancy A. Nakamura

FROM: (for) Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Office of Disclosure Continues to Improve
Upon Its Responses to Taxpayers’ Requests Under the Freedom of
Information Act (Audit # 200930019)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) improperly withheld information requested by taxpayers in writing, based on the Freedom of Information Act (FOIA)¹ exemption (b)(3), in conjunction with Internal Revenue Code (I.R.C.) Section (§) 6103,² and/or FOIA exemption (b)(7) or by replying that responsive records were not available.

The Treasury Inspector General for Tax Administration is required to conduct periodic audits to determine if the IRS properly denied taxpayers’ written requests for tax account information. We are also required to include the results in one of our Semiannual Reports to Congress. This is our tenth review of denials of FOIA, Privacy Act of 1974,³ and I.R.C. § 6103 requests.

Impact on the Taxpayer

The IRS must ensure that the provisions of the FOIA, the Privacy Act, and I.R.C. § 6103 are followed, particularly because errors can violate taxpayer rights and result in improper disclosures of tax information. The IRS has made significant improvement over the past 10 years in the timeliness of responses to FOIA and Privacy Act requests; however, in 1.3 percent of FOIA and Privacy Act requests we reviewed, the IRS improperly withheld

¹ 5 U.S.C.A. § 552 (2008).

² I.R.C. § 6103 (2009).

³ 5 U.S.C. § 552a (2008).



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information from taxpayers. When projected to the population, our sample results indicate that 57 taxpayers may have been denied information under the FOIA and/or Privacy Act in Fiscal Year 2008. This is a potential violation of taxpayer rights because tax account information was available and was not provided to taxpayers.

Synopsis

The IRS continued to improve the accuracy and completeness of its responses to requests for information covered by the FOIA. While improvement was noted, management needs to ensure that disclosure personnel continue to follow required procedures on all requests. In 1.3 percent (1 of 80 cases) of the FOIA/Privacy Act cases we reviewed, information was improperly withheld from the requestors. The error occurred mainly because of inadequate research or simple oversight by Disclosure office personnel. The IRS adhered to legal requirements under I.R.C. § 6103 in the sample of 77 cases we reviewed.

Since Fiscal Year 2000, the IRS has made significant improvement in responding timely to FOIA and Privacy Act requests. For example, responses to only 1 (1.3 percent) of the 80 cases in our sample were untimely. In our audits over the previous 9 years, the percentages of untimely responses ranged from 1.2 percent to 43.5 percent. The increase in responsiveness may, in part, be due to the continued decrease in the numbers of FOIA and Privacy Act cases received during Fiscal Year 2008 compared to Fiscal Year 2007 and the prior years this review has been conducted.

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.



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Abbreviations

FOIA	Freedom of Information Act
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service



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Background

Statutory requirements

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998¹ requires the Treasury Inspector General for Tax Administration to:

... conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103² of this title³ or section 552(b)(7) of title 5, United States Code.⁴

The three primary laws that govern the types of requests for information reviewed in this audit are:

The Freedom of Information Act (FOIA) requires Federal Government agencies to make records available to the public upon request unless specifically exempted. Information that is “specifically exempted from disclosure by statute” is one of the exemptions. Internal Revenue Code (I.R.C.) Section (§) 6103 is an example of such a statute; it protects the confidentiality of tax returns and return information.

The FOIA requires agencies to make records of the Federal Government available to the public upon request unless specifically exempted.

Records or information compiled for law enforcement purposes are also exempt from disclosure under the FOIA.

The Privacy Act of 1974⁵ prohibits Federal Government agencies from relying on any exemption in the Privacy Act to withhold records that are otherwise available to an individual under the FOIA.

I.R.C. § 6103, while protecting the confidentiality of taxpayers’ returns and return information, does allow the taxpayer, or a person designated by the taxpayer, to request and receive the taxpayer’s specific documents and information.

¹ 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.). The requirements for this audit are in Section (§) 1102 (d)(3)(A) of the statute.

² Internal Revenue Code § 6103 (2009).

³ 26 U.S.C.

⁴ Freedom of Information Act, 5 U.S.C.A. § 552 (2008).

⁵ U.S.C. § 552a (2008).



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IRS processing and reporting of FOIA cases

Within the IRS, the Small Business/Self-Employed Division Office of Communications, Liaison, and Disclosure (through its Governmental Liaison and Disclosure Branch) is responsible for ensuring compliance with the FOIA, the Privacy Act, and I.R.C. § 6103 is timely. The Office of Disclosure within the Governmental Liaison and Disclosure Branch sets policy and issues instructions, guidelines, and procedures to ensure compliance with the disclosure statutes.

The Disclosure offices within the Small Business/Self-Employed Division processed the FOIA and Privacy Act requests and the I.R.C. § 6103 requests received by the IRS through September 2008. In its FOIA Annual Report for Fiscal Year (FY) 2008, the IRS reported that a total of 15,590 FOIA/Privacy Act cases were processed. This represents a decrease of 15 percent from the 18,289 FOIA/Privacy Act cases processed during FY 2007. The IRS attributes this decrease to:

- A decrease in the number of frivolous requests.
- An increase in IRS employee awareness of what types of documents can be released to taxpayers without formal FOIA/Privacy Act requests.
- Taxpayers being able to receive more information from IRS web sites without having to make formal requests.

According to the United States Department of the Treasury Freedom of Information Act Annual Report to the Attorney General for Fiscal Year 2008, the IRS denied or partially denied information to requestors in 2,376 (15.2 percent) of the 15,590 FOIA/Privacy Act cases processed in FY 2008. It advised requestors that there were no records responsive to requests in 2,300 (14.8 percent) of the 15,590 cases. The remaining cases were either granted in full or closed for miscellaneous reasons, such as the request was improper or the request was withdrawn.

Audit limitations and standards

Individual IRS Disclosure offices or other IRS offices having custody of the records processed written requests for information made under I.R.C. § 6103. While the IRS is not required to track all requests made under I.R.C. § 6103, it has elected to do so for requests received by its Disclosure offices. Disclosure offices used the IRS Electronic-Disclosure Information Management System⁶ to track requests made under both the FOIA and the Privacy Act for FY 2008. Requests made under I.R.C. § 6103 that were received and processed by IRS offices other than Disclosure offices are neither controlled on the Electronic-Disclosure Information Management System nor otherwise inventoried. Consequently, the volume of these requests is

⁶ The primary automated information system used by Governmental Liaison and Disclosure Branch staff for inventory tracking, work planning, statistical management reports, daily time tracking, etc.



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not known. As a result, we can statistically sample only the I.R.C. § 6103 requests processed directly by the IRS Disclosure offices and tracked on the Electronic-Disclosure Information Management System.

Beginning in February 2006, the responsibility for processing some requests for I.R.C. § 6103 tax compliance checks and transcripts was transferred from the Small Business/Self-Employed Division Disclosure offices to the Wage and Investment Division Return and Income Verification Services Units. The Small Business/Self-Employed Division continues to process the FOIA and Privacy Act requests for information. The transfer of responsibility for processing of tax compliance checks and transcripts to the Return and Income Verification Services Units resulted in an increase in our scope limitation for this and future years' audits because the Wage and Investment Division does not record the I.R.C § 6103 cases on the Electronic-Disclosure Information Management System. We reviewed only those requests processed by the Small Business/Self-Employed Division Disclosure offices that were denied during the period October 1, 2007, through September 30, 2008.

During this 12-month period, IRS Disclosure offices processed approximately 13,847 requests made under I.R.C. § 6103. We estimated that the Disclosure offices denied information, or told requestors that records were not available, for approximately 33 percent of I.R.C. § 6103 requests (approximately 4,576 requests). The remaining requests were granted in full or information on the disposition was not available.

This review was performed at the Small Business/Self-Employed Division Governmental Liaison and Disclosure Branch in New Carrollton, Maryland, during the period January through June 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 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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Results of Review

Overall, the IRS continued to reduce its inventory backlog and improved its service to persons who requested information under the FOIA/Privacy Act based on the sample of cases we reviewed. The IRS improperly withheld information from requestors in only 1 (1.3 percent) of the 80 FOIA/Privacy Act cases reviewed. In addition, the IRS adhered to legal requirements under I.R.C. § 6103 in the sample of 77 cases we reviewed. We noted no exceptions in the 77 I.R.C. § 6103 cases. The Disclosure offices responded timely to the requestors in all but one case.

The Internal Revenue Service Continues to Reduce Its Inventory Backlog

Ultimately, the IRS relies on its disclosure personnel to ensure requests under the FOIA are handled timely and in accordance with laws and regulations. At the top of the agency, a broad policy statement and the Internal Revenue Manual provide guidance nationwide to disclosure personnel. The policy statement, among other things, affirms the IRS commitment to full compliance with the FOIA and administering it in a manner consistent with “the fundamental values held by our society, including public accountability, safeguarding national security, enhancing the effectiveness of law enforcement agencies and the decision-making processes, protecting sensitive business information, and protecting personal privacy.”

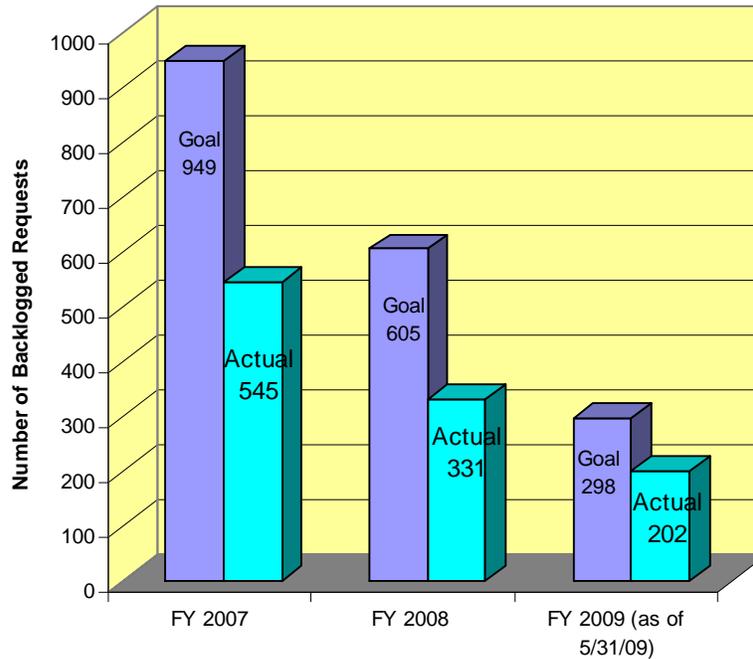
Besides providing assurances that FOIA requests are handled timely and in accordance with laws and regulations, the IRS continues in its efforts in carrying out its responsibilities under the Government-wide *Improving Agency Disclosure of Information* initiative. While data are not available on the precise impact the initiative is having on improving the disclosure of information, statistics from the Disclosure office show the IRS has continued to improve in its reduction of the backlog of FOIA requests. The goal of the IRS is to reduce its backlog by 10 percent or to 298 cases this year. On September 30, 2008, 331 cases were in backlog, and as of May 31, 2009, there were 202 cases in backlog. This represents a 43 percent decrease in backlog since the beginning of FY 2009.⁷ This is particularly important because the initiative is designed to address the primary reason response time periods are not met under the FOIA. Figure 1 shows the reduction of backlogged FOIA requests from FY 2007 through FY 2009.

⁷ This percentage was calculated by taking the difference between the 331 cases in the beginning inventory and subtracting 202 cases in inventory as of May 31, 2009, (129) and dividing it by 298, the goal for FY 2009, which is .4328 or 43%. This comparison is to reflect the level of backlog as compared to the original goal set at the beginning of FY 2009.



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Figure 1: Reduction of Backlogged FOIA Requests



Source: IRS Disclosure office.

The Percentage of Improperly Denied Freedom of Information Act/Privacy Act Requests for Information Has Decreased

The IRS continued to improve the accuracy and completeness of its responses to persons who requested information under the FOIA/Privacy Act based on the sample of cases we reviewed.⁸ Figure 2 shows the percentages of improperly withheld FOIA/Privacy Act and I.R.C. § 6103 requests we have reported since FY 2000. While improvement was noted, management needs to ensure that disclosure personnel continue to follow required procedures on all requests. The IRS improperly withheld information from requestors in 1 (1.3 percent) of the 80 FOIA/Privacy Act

⁸ We selected our sample of 80 cases for audit review of denials of FOIA/Privacy Act requests from a total population of 4,361 cases closed during FY 2008 that either were fully denied, were partially denied, or for which no records were found to be responsive to the requests. The total of 4,361 cases includes 2,299 nonresponsive closures plus 2,062 cases denied or partially denied. The full 2,376 cases, as stated in the United States Department of Treasury Freedom of Information Act Annual Report to the Attorney General for Fiscal Year 2008, were not used due to filters identifying only cases denied for FOIA exemptions (b)(7) or (b)(3) in conjunction with I.R.C. § 6103 (which was our criterion).



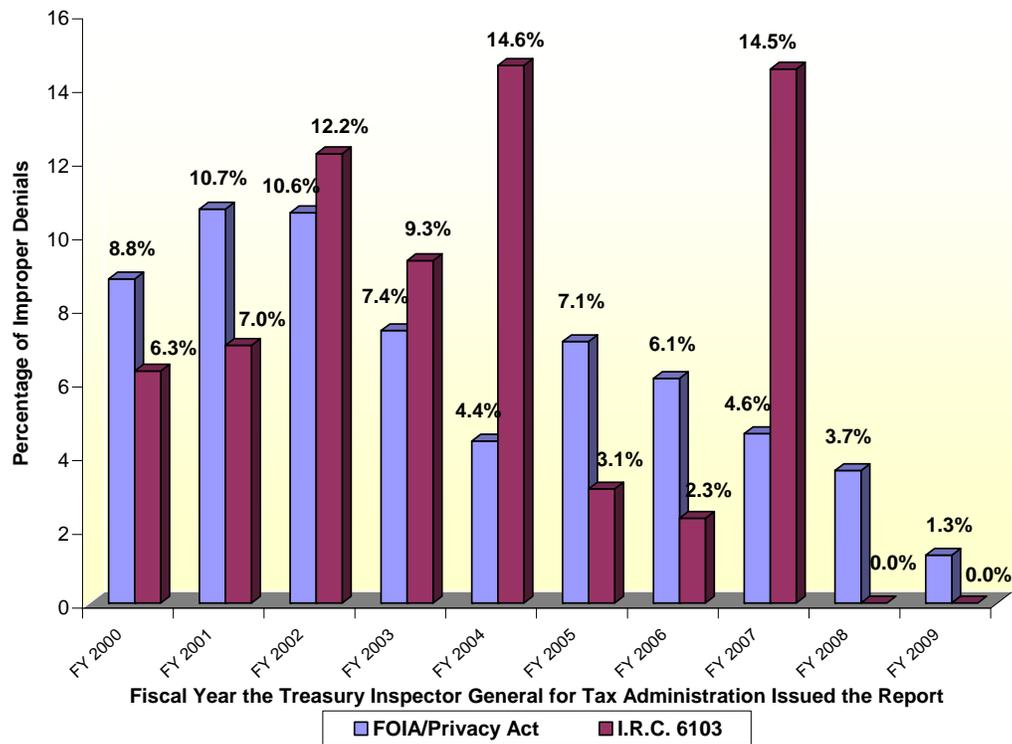
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cases. When projected to the population, our sample results indicate that 57 taxpayers might have been denied information under the FOIA and/or Privacy Act in FY 2008. The IRS adhered to legal requirements under I.R.C. § 6103 in the sample of 77 cases we reviewed.

We analyzed the 1 FOIA/Privacy Act case with improper withholdings and determined the types of information improperly withheld have remained relatively consistent with the types of information identified as improperly withheld during our previous audit reviews. The most common types of information withheld were miscellaneous IRS forms and documents associated with tax transcript information.

Errors occurred mainly because of inadequate research or simple oversight by the Disclosure office caseworkers. For the one FOIA case, the Disclosure office caseworkers either did not conduct complete research or stated information was not available when it was readily available.

Figure 2: Improper FOIA/Privacy Act and I.R.C. § 6103 Request Withholdings



Source: Treasury Inspector General for Tax Administration audit reports issued in FYs 2000-2009. Percentages were rounded to the nearest tenth.

Because the IRS improperly denied available records, taxpayers' rights could have been violated, taxpayers could have been burdened unnecessarily, and the IRS may have incurred additional costs through the appeals process. For FOIA requests, if the IRS reports that no applicable



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records exist, or denies any part of the request, the requestor may administratively appeal the IRS' decision. If the IRS denies the administrative appeal, the requestor has the right to appeal the denial in court. Preparing and processing the appeals would place additional burden on the requestor and additional costs on the IRS.

During FY 2008, the IRS processed 247 FOIA/Privacy Act appeals. The Office of Appeals completely upheld the Disclosure office's decision to deny records in 214 cases, partially reversed 1 denial, and completely reversed 2 denials. The remaining 30 FOIA cases were closed for other reasons. In the one FOIA case in which the IRS improperly withheld records in our sample, the requestor did not appeal. Had this taxpayer used the appeals process, the improper determinations might have been discovered and reversed.

We also identified two cases where an unauthorized disclosure may have been made to the requestor of the documents. While this was not the focus of our review, we provided this information to IRS management for appropriate action.

The Number of Freedom of Information Act and Privacy Act Cases Not Responded to Timely Has Remained Constant

The FOIA requires Federal Government agencies to respond within 20 business days of the receipt of a request or, if the 20 days are not sufficient, to notify the requestor of the reason why the request cannot or will not be filled. If Federal Government agencies are unable to respond to the request within the time limit, they are required to immediately notify the requestor of the reasons why they are unable to respond and of the requestor's right to appeal.

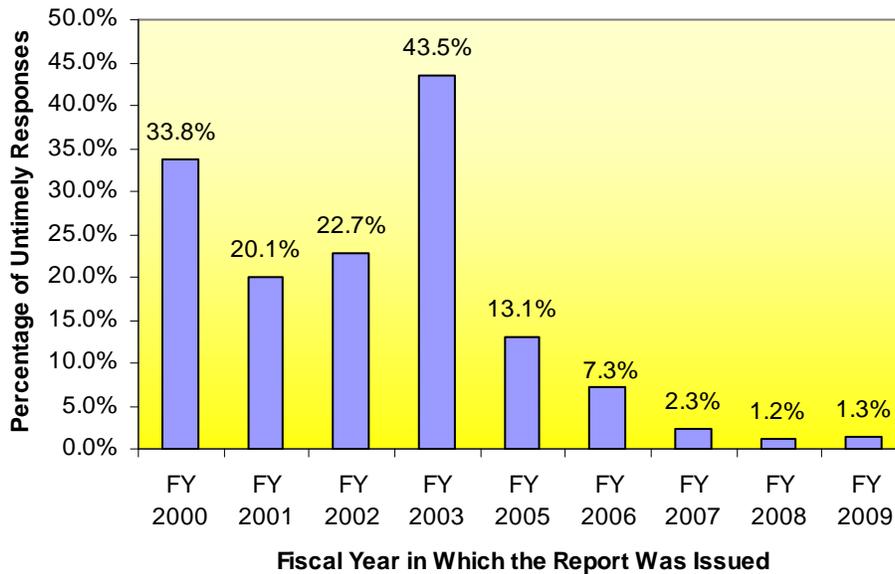
The due date for a FOIA request is revised when the IRS sends a letter to the requestor exercising its right for an automatic 10-day extension and/or requesting a voluntary extension in excess of the initial statutory 20-day period for FOIA requests. The requestor must agree to the voluntary extension, and the IRS must notify the requestor of its ability to respond by the end of the extension period. A case is untimely when the IRS responds to the requestor after the due date. For Privacy Act cases, the IRS must respond within 30 business days of the taxpayer's request.

Since FY 2000, the IRS has made significant improvement in the timeliness of responses to FOIA/Privacy Act requests. Figure 3 shows the percentages of untimely cases we have reported since FY 2000.



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Figure 3: Comparison of Untimely FOIA/Privacy Act Responses



Source: Treasury Inspector General for Tax Administration audit reports issued in FYs 2000-2009. Percentages were rounded to the nearest tenth.⁹

The Disclosure offices did not respond to the requestor in the time required by law for only 1 (1.3 percent) of the 80 FOIA/Privacy Act cases. The response was late because the IRS was conducting additional research which was not completed by the response due date. Based on our sample results, we estimate that, from the population of 4,361 cases closed during the period October 1, 2007, through September 30, 2008, there were 57 FOIA/Privacy Act requests not processed timely. While there is a slight increase in the overall percentage of untimely responses from last year's review, we only identified one case last year where the Disclosure offices did not respond timely. The increase in responsiveness may, in part, be due to the continued decrease in the numbers of FOIA and Privacy Act cases received during FY 2008 compared to FY 2007 and the prior years this review has been conducted.

⁹ We did not evaluate the timeliness of responses to FOIA and Privacy Act requests in the FY 2004 audit because the IRS was in the process of implementing our recommendations to improve timeliness.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing, based on the FOIA¹ exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) or by replying that responsive records were not available. To accomplish this objective, we:

- I. Identified if any changes to the policies, operating procedures, systems, documents/files, risks, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information under the FOIA occurred since last year's review.
- II. Identified the management controls that are in place to ensure the timely and proper receipt, disposition, and resolution or denials of requests for information under the FOIA.
- III. Determined whether the IRS properly adhered to statutory FOIA and Privacy Act of 1974² requirements and to procedural requirements.
 - A. Obtained an extract from the Electronic-Disclosure Information Management System³ for the period October 1, 2007, through September 30, 2008, and identified 4,361 FOIA and Privacy Act cases closed as denied or partially denied based on FOIA exemption (b)(3) in conjunction with I.R.C. § 6103, FOIA exemption (b)(7), or for which the IRS replied that responsive records did not exist. We validated the data extract by performing specialized queries.
 - B. Designed an attribute sample based on a 90 percent confidence level, an expected error rate of 7.05 percent, and an estimated precision of ± 5 percent. Based on these parameters, a statistically valid sample size was 71 cases. This sampling methodology was chosen so we could project the number of cases with improper withholdings to the universe of cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. We increased the attribute sample size from 71 cases to 81 cases to account for the possibility that some case files would be unavailable. For the 81 randomly selected cases requested, we received 80 case files.

¹ 5 U.S.C.A. § 552 (2008).

² Privacy Act of 1974, 5 U.S.C. § 552a (2008).

³ The primary automated information system used by Governmental Liaison and Disclosure Branch staff for inventory tracking, work planning, statistical management reports, daily time tracking, etc.



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- C. Reviewed the 80 sampled cases and determined whether the decision to withhold information was appropriate, the record search was adequate, and the determination was made in a timely manner.
 - D. Projected the number of improper withholdings in the range of 3 to 253 (.06 percent to 5.79 percent) for FOIA/Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 1.3 percent. As a result, the actual precision factor was ± 1.59 percent. The accuracy of our projection was reviewed and confirmed by our contracted statistician.
 - E. Projected the number of untimely determinations in the range of 3 to 253 (.06 percent to 5.59 percent) for FOIA/Privacy Act cases that were partially or fully denied based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or for which requestors were told records were not available. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 1.3 percent. As a result, the actual precision factor was ± 1.59 percent. The accuracy of our projection was reviewed and confirmed by our contracted statistician.
 - F. Discussed all exception cases with the FOIA Senior Tax Law Specialist.
 - G. Determined whether the requestor appealed the denial for the exception case identified.
 - H. Reviewed the United States Department of the Treasury Freedom of Information Act Annual Report to the Attorney General for Fiscal Year 2008 showing various statistics for FOIA/Privacy Act cases, including appeals and closures. This information was not independently verified because the accuracy of these statistics did not affect the accomplishment of our audit objectives.
- IV. Determined whether the IRS Disclosure offices adhered to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.⁴
- A. From the national extract obtained for Step III. A., identified 13,847 I.R.C. §§ 6103 (c) and (e) requests.
 - B. Designed an attribute sample based on a 90 percent confidence level, an expected error rate of 7.69 percent, and an estimated precision of ± 5 percent. Based on these parameters, the size of the statistically valid sample was 77 cases. This sampling methodology was chosen because it would allow us to project the number of cases

⁴ I.R.C. § 6103 (2009).



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- with improper withholdings to the universe of closed I.R.C. §§ 6103 (c) and (e) requests for which information was partially or fully denied or for which the IRS replied that responsive records did not exist. We selected a larger sample size to account for the possibility that some case files would be unavailable.
- C. Selected a random sample of 400 of the 13,847 I.R.C. §§ 6103 (c) and (e) closed cases, requested case files for 400 cases from the IRS, and received 233 case files. We determined that 77 (33 percent) of the 233 cases included instances in which information was partially or fully denied or in which the IRS replied that responsive records did not exist.
 - D. Reviewed the 77 cases and determined whether the decision to withhold the information based on I.R.C. § 6103 was appropriate.
 - E. Discussed all exception cases with the FOIA Senior Tax Law Specialist.



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Appendix II

Major Contributors to This Report

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Donna Saranchak, Lead Auditor

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Erlinda Foye, Auditor



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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, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division
SE:S:CLD
Director, Governmental Liaison and Disclosure, Small Business/Self-Employed Division
SE:S:CLD:GLD
Chief, Disclosure Branch, Small Business/Self-Employed Division SE:S:CLD:GLD:D
Freedom of Information Act Senior Tax Law Specialist SE:S:CLD:GLD:D
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: Commissioner, Small Business/Self-Employed Division SE:S



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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that the results of our audit will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; 57 responses to FOIA¹ or Privacy Act of 1974² requests for which information was improperly withheld during the 12-month period October 1, 2007, through September 30, 2008 (see page 5).

Methodology Used to Measure the Reported Benefit:

The attribute sample of 80 cases was randomly selected from the universe of 4,361 FOIA/Privacy Act requests closed nationally during the period October 1, 2007, through September 30, 2008, as 1) a full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. Section (§) 6103,³ and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information, or 2) a request for which the IRS replied that responsive records did not exist.

We found 1 (1.3 percent) case in which the IRS improperly withheld information requested by the taxpayer. We arrived at the estimate by multiplying the number of requests closed as 1) or 2) as listed in the prior paragraph by the error rate of cases identified in our sample (4,361 * 1.3 percent error rate = 57 cases). A case was considered an “error” if a Disclosure office improperly withheld information that was available and could have been released under the FOIA and/or the Privacy Act.

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; 57 FOIA or Privacy Act requests that were not processed in a timely manner during the 12-month period October 1, 2007, through September 30, 2008 (see page 7).

¹ 5 U.S.C.A. § 552 (2008).

² 5 U.S.C. § 552a (2008).

³ I.R.C. § 6103 (2009).



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The attribute sample of 80 cases was randomly selected from the universe of 4,361 FOIA/Privacy Act requests closed nationally during the period October 1, 2007, through September 30, 2008, as 1) a full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7) cited as one of the reasons for withholding information, or 2) a request for which the IRS replied that responsive records did not exist.

We identified only 1 (1.3 percent) of 80 cases reviewed as having a response issued after the due date. We arrived at the estimate by multiplying the number of requests closed as 1) or 2) as listed in the prior paragraph by the percentage of untimely responses identified in our sample (4,361 * 1.3 percent error rate = 57 cases).