



*The Office of Disclosure Continues to
Improve Compliance With the
Freedom of Information Act Requirements*

August 3, 2010

Reference Number: 2010-30-090

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



HIGHLIGHTS

THE OFFICE OF DISCLOSURE CONTINUES TO IMPROVE COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REQUIREMENTS

Highlights

Final Report issued on August 3, 2010

Highlights of Reference Number: 2010-30-090 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) must ensure that the provisions of the Freedom of Information Act (FOIA), the Privacy Act, and Internal Revenue Code (I.R.C.) Section (§) 6103 are followed, particularly because errors can violate taxpayer rights and result in improper disclosures of tax information.

WHY TIGTA DID THE AUDIT

TIGTA is required to conduct periodic audits to determine if the IRS properly denied taxpayers' written requests for tax account information. TIGTA is also required to include the results in one of our Semiannual Reports to Congress. This is our eleventh review of denials of FOIA, Privacy Act of 1974, and I.R.C. § 6103 requests.

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing, based on the FOIA 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.

WHAT TIGTA FOUND

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 76 cases) of the FOIA/Privacy Act cases TIGTA 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 also did not properly adhere to the legal requirements under I.R.C. § 6103 in ****1**** of 247 cases) of the requests TIGTA reviewed.

Since Fiscal Year 2000, the IRS has made significant improvement in responding timely to FOIA and Privacy Act requests. In all FOIA and Privacy Act requests reviewed, a timely response was provided. In our audits over the previous 10 years, the percentages of untimely responses ranged from 1.2 percent to 43.5 percent. The increase in responsiveness may be due, in part, to the continued decrease in the numbers of FOIA and Privacy Act cases received during Fiscal Year 2009 compared to Fiscal Year 2008 and the prior years this review has been conducted.

WHAT TIGTA RECOMMENDED

TIGTA did not make any recommendations in this report. However, a draft of the report was provided to the IRS for review and comment. The IRS did not have any written comments in response to the report.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 3, 2010

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – The Office of Disclosure Continues to Improve
Compliance With the Freedom of Information Act Requirements
(Audit #201030023)

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 eleventh review of denials of FOIA, Privacy Act of 1974,³ and I.R.C. § 6103 requests.

Although we made no recommendations in this report, we did provide IRS officials an opportunity to review the draft report. The IRS did not have any written comments in response to the report.

Copies of this report are also being sent to the IRS managers affected by the report. 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.

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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Abbreviations

FOIA	Freedom of Information Act
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed



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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. (2009).

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 (SB/SE) 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 SB/SE Division processed the FOIA and Privacy Act requests and the I.R.C. § 6103 requests received by the IRS through September 2009. In its FOIA Annual Report for Fiscal Year (FY) 2009, the IRS reported that a total of 14,507 FOIA/Privacy Act cases were processed. This represents a decrease of 7 percent from the 15,590 FOIA/Privacy Act cases processed during FY 2008. 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 FY 2009, the IRS denied or partially denied information to requestors in 2,324 (16 percent) of the 14,507 FOIA/Privacy Act cases processed in FY 2009. It advised requestors that there were no records responsive to requests in 1,463 (10.1 percent) of the 14,507 cases. The remaining cases were either granted in full or closed for miscellaneous reasons, such as the request was improper or had been previously granted.

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 System to track requests made under both the FOIA and the Privacy Act for FY 2009. 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 System⁶ nor otherwise inventoried. Consequently, the volume of these requests is not known. As a result, we can statistically sample only the I.R.C. § 6103 requests processed

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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directly by 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 SB/SE Division Disclosure offices to the Wage and Investment Division Return and Income Verification Services Units. The SB/SE Division continues to process the FOIA and Privacy Act requests for information. The transfer of responsibility for processing 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 SB/SE Division Disclosure offices that were denied during the period October 1, 2008, through September 30, 2009. During this 12-month period, IRS Disclosure offices processed approximately 14,983 requests made under I.R.C. § 6103.

This review was performed at the SB/SE Division Governmental Liaison and Disclosure Branch in New Carrollton, Maryland, during the period December 2009 through April 2010. 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 76 FOIA/Privacy Act cases reviewed. In addition, the IRS adhered to legal requirements under I.R.C. § 6103 in all but *****1*****of the 247 sample cases we reviewed. The Disclosure offices responded timely to all the requestors in the 76 cases sampled.

The Internal Revenue Service’s Inventory Backlog Continues to Decrease

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.”

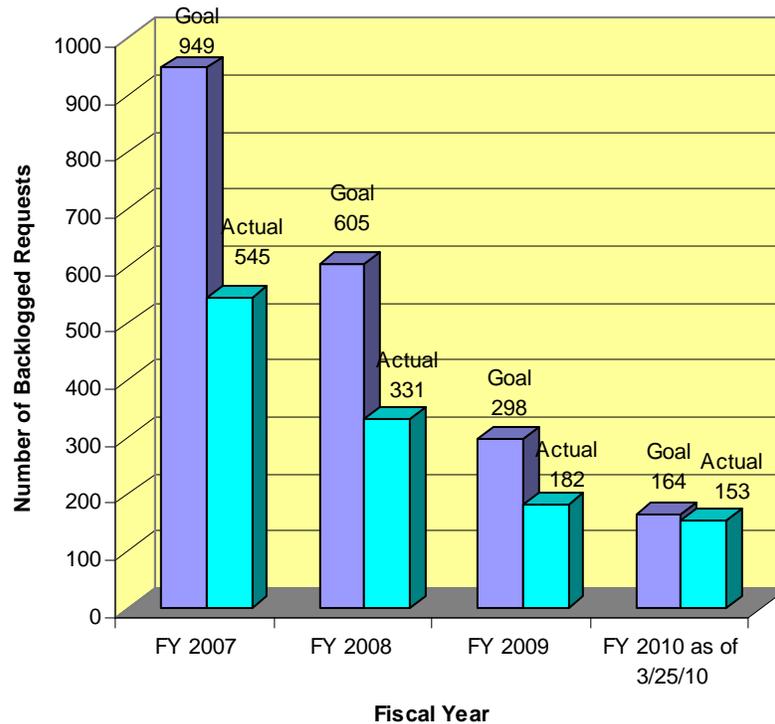
Besides providing assurances that FOIA requests are handled timely and in accordance with laws and regulations, the IRS continues its efforts in carrying out its responsibilities to reduce inventory backlog under the Government-wide *Improving Agency Disclosure of Information* initiative. While data 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 backlogs of FOIA requests. On September 30, 2009, 182 cases were in backlog. This represents a 45 percent decrease in backlog cases from FY 2008. Reducing backlog is particularly important because it is designed to address the primary reason response time periods are not met under the FOIA. In FY 2010, the goal of the IRS is to reduce its backlog by 10 percent or to 164 cases. On September 30, 2009, 182 cases were in backlog, and as of March 25, 2010, there were 153 cases in backlog. This represents a 16 percent decrease in backlog since the beginning of the year.⁷ Figure 1 shows the reduction of backlogged FOIA requests from FY 2007 through FY 2010, as of March 25.

⁷ This percentage was calculated by determining the difference between the 182 cases in the beginning inventory and the 153 cases in inventory as of March 25, 2010. We then took the difference of 29 and divided it by 182 (the beginning inventory), which equates to .1593, or 16 percent.



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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 Remained Constant

The IRS was consistent in its service to persons who requested information under the FOIA/Privacy Act and I.R.C. § 6103 based on the sample of cases we reviewed. The IRS improperly withheld information from requestors in 1 (1.3 percent) of the 76 FOIA/Privacy Act cases and in *****1*****of the 247 I.R.C. § 6103 cases we sampled. As a result, we estimate the Disclosure offices did not provide available tax records for 38 requests made under the FOIA/Privacy Act and for 60 requests made under I.R.C. § 6103.⁸

We analyzed the one FOIA/Privacy Act case for which information was improperly withheld and determined the types of information improperly withheld have remained relatively consistent

⁸ These point estimates are susceptible to the possibility of a relatively large amount of random error because of the small sample size and the rarity of incorrect denials. Our statistical projections are that the FOIA/Privacy Act errors are in the 2 to 177 range and that the I.R.C. § 6103 errors are in the 3 to 286 range. See Appendix IV for details.



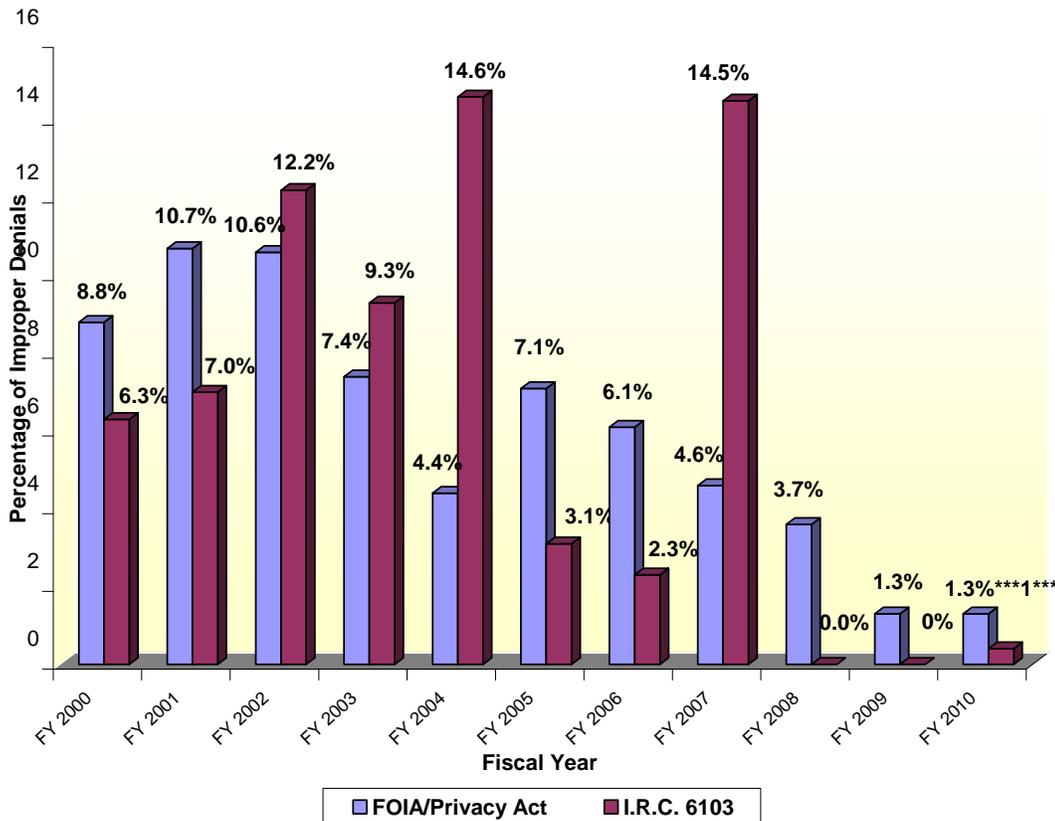
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with the type of information identified as improperly withheld during the previous audit periods. The most common types of information withheld were miscellaneous IRS forms and documents associated with tax transcript information.

Errors occurred mainly because of inadequate research or simple oversight by Disclosure office caseworkers. For the one FOIA case *****1*****
*****1*****.

Figure 2 shows the audit results for FYs 2000 through 2010.

Figure 2: Improperly Withheld FOIA/Privacy Act and I.R.C. § 6103 Requests Identified in Treasury Inspector General for Tax Administration Audit Reports by Fiscal Year



Source: Treasury Inspector General for Tax Administration audit reports issued in FYs 2000 through 2010. Percentages were rounded to the nearest tenth.

Because the IRS improperly denied available records, the taxpayers’ rights could have been violated, the 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 records exist or denies any part of the request, the requestor may administratively



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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 2009, the IRS processed 223 FOIA/Privacy Act appeals.⁹ The Office of Appeals completely upheld the Disclosure office's decision to deny records in 220 cases and partially reversed 1 denial. In the remaining two FOIA cases, the cases were closed for other reasons. In the one FOIA case for 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.

Taxpayers have no provisions to appeal under I.R.C. § 6103 if the IRS fully or partially denies requests for information or if the IRS reports no records are available. Taxpayers could incur additional burden if they decided to request the information again, and the IRS would incur additional costs to process these requests.

The Disclosure Office Responded Timely to All Freedom of Information Act and Privacy Act Cases Reviewed

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. Federal Government agencies are required to immediately notify the requestor if they are unable to respond to the request within the time limit, 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.

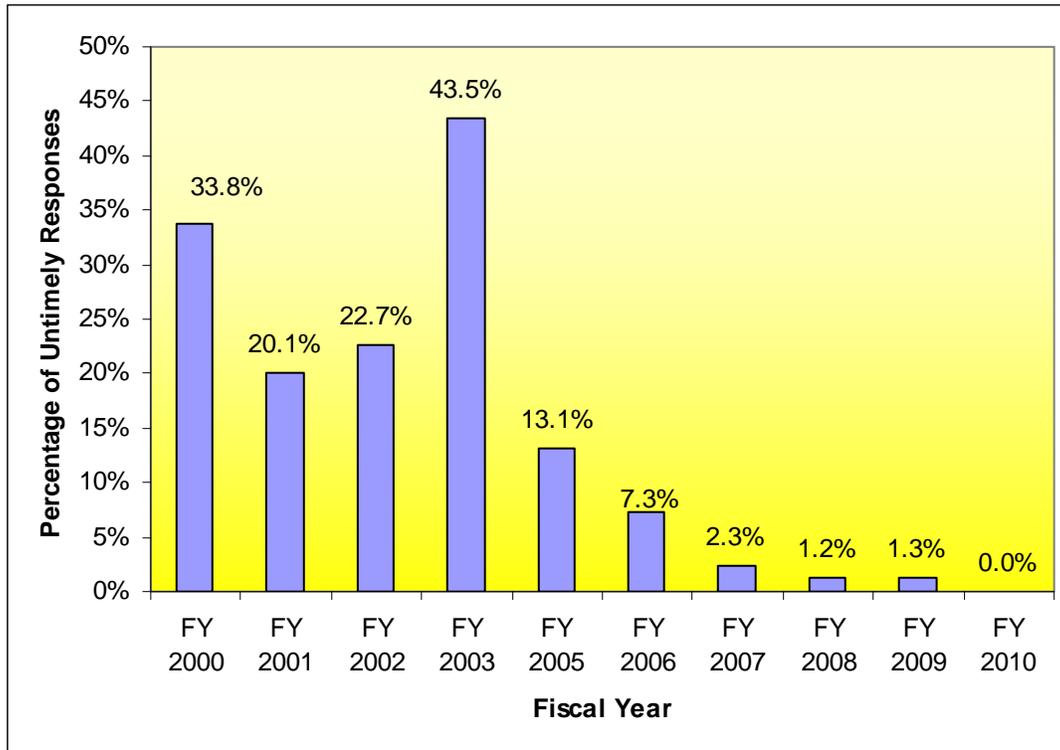
Since FY 2000, the IRS has made significant improvement in the timeliness of responses to FOIA/Privacy Act requests. In our audits over the previous 10 years, the percentages of untimely responses ranged from 1.2 percent to 43.5 percent. The increase in responsiveness may be due, in part, to the continued decrease in the numbers of FOIA and Privacy Act cases received during FY 2009 compared to FY 2008 and the prior years this review has been conducted. Figure 3 shows the percentages of untimely cases we have reported since FY 2000.

⁹ United States Department of the Treasury Freedom of Information Act Annual Report to the Attorney General for FY 2009.



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Figure 3: Comparison of Untimely FOIA/Privacy Act Responses Identified in Treasury Inspector General for Tax Administration Audit Reports by Fiscal Year



Source: Treasury Inspector General for Tax Administration audit reports issued in FYs 2000 through 2010. Percentages were rounded to the nearest tenth.¹⁰

To their credit, the Disclosure offices responded to the requestor in the time required by law for each of the 76 FOIA/Privacy Act requests sampled.

¹⁰ 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. § 6103,² and/or FOIA exemption (b)(7) or by replying that responsive records were not available. To accomplish this objective, we:

- I. Identified 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 Act³ requirements, as well as procedural requirements.⁴
 - A. Obtained a national extract from the national Electronic-Disclosure Information Management System⁵ for the period October 1, 2008, through September 30, 2009, and identified 2,911 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 6.48 percent, and an estimated precision of ± 5 percent. Based on these parameters, a statistically valid sample size was 66 cases. This sampling methodology was chosen so we could project the number of cases for which information was improperly withheld 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 66 cases to 76 cases to

¹ 5 U.S.C.A. § 552 (2008).

² Internal Revenue Code § 6103 (2009).

³ U.S.C. § 552a (2008).

⁴ This sub-objective addresses the mandatory review for FOIA, Privacy Act, and I.R.C. § 6103 requests.

⁵ 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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- account for the possibility that some case files would be unavailable. For the 76 randomly selected cases requested, we received all case files.
- C. Reviewed the 76 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 2 to 177 (.067 percent to 6.09 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 ± 1.66 percent. The accuracy of our projection was reviewed and confirmed by our contracted statistician.
 - E. Discussed all exception cases with Disclosure office personnel.
 - F. Determined whether the requestor appealed the denial for the exception case identified.
 - G. Reviewed the United States Department of the Treasury Freedom of Information Act Annual Report to the Attorney General for FY 2009 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 objective.
- IV. Determined whether the IRS Disclosure offices are adhering to legal requirements when denying written requests received from taxpayers under I.R.C. § 6103.
- A. From the national extract obtained for Step III. A., identified 14,983 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 6.93 percent, and an estimated precision of ± 5 percent. Based on these parameters, the size of the statistically valid sample was 70 cases. This sampling methodology was chosen because it would allow us to project the number of cases for which information was improperly withheld 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 14,983 I.R.C. §§ 6103 (c) and (e) closed cases, requested case files for 400 cases from the IRS, and received 247 case files. We determined that 70 (28.3 percent) of the 247 cases included instances for which



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- information was partially or fully denied or for which the IRS replied that responsive records did not exist.
- D. Reviewed the 70 cases and determined whether the decision to withhold the information based on I.R.C. § 6103 was appropriate.
 - E. Projected the number of improper withholdings in the range of 3 to 281 (.074 percent to 6.620 percent) for the 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. The projection was made using attribute sampling, with a 90 percent confidence level and an actual error rate of 0.4 percent. As a result, the actual precision factor was ± 0.51 percent.
 - F. Discussed all exception cases with Disclosure office personnel.

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: IRS policies, operating procedures, systems, laws, and regulations related to the receipt, disposition, and resolution or denials of requests for information under the FOIA to evaluate whether the IRS improperly withheld information requested by taxpayers in writing. We evaluated these controls by reviewing source materials, interviewing management, and reviewing a sample of closed FOIA, Privacy Act, and I.R.C. § 6103 cases.



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Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Frank Dunleavy, Director
Carole Connolly, Acting Audit Manager
Donna Saranchak, Lead Auditor
Cynthia Dozier, Senior Auditor
Joan Floyd, Senior Auditor
Sharon Summers, Senior Auditor
Erlinda Foye, Management 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
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; 38 responses to FOIA¹ or Privacy Act of 1974² requests for which information was improperly withheld during the 12-month period October 1, 2008, through September 30, 2009 (see page 5).

Methodology Used to Measure the Reported Benefit:

The attribute sample of 76 cases was randomly selected from the universe of 2,911 FOIA/Privacy Act requests closed nationally during the period October 1, 2008, through September 30, 2009, as 1) a full or partial denial with either FOIA exemption (b)(3), in conjunction with I.R.C. § 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*****4 **** for 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 (2,911 x 1.3 percent error rate = 38 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; 60 responses to I.R.C. § 6103 requests for which information was improperly withheld during the 12-month period October 1, 2008, through September 30, 2009 (see page 6).

¹ 5 U.S.C.A. § 552 (2008).

² 5 U.S.C. § 552a (2008).

³ I.R.C. § 6103 (2009).

⁴ These point estimates are susceptible to the possibility of a relatively large amount of random error because of the small sample size and the rarity of incorrect denials. Our statistical projections are that the FOIA/Privacy Act errors are in the 2 to 177 range.



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Methodology Used to Measure the Reported Benefit:

The attribute sample was randomly selected from the universe of I.R.C. §§ 6103 (c) and (e) requests closed nationally during the period October 1, 2008, through September 30, 2009. The Disclosure offices are not required to input a disposition code showing how I.R.C. § 6103 cases are closed (granted, denied, etc.). We arrived at the estimate by:

- Identifying 14,983 closed I.R.C. §§ 6103 (c) and (e) requests.
- Requesting a random sample of 400 cases; we received 247 cases. We reviewed the 247 cases received in order to obtain a sample of 70 cases of denied, partially denied, or no requested record available cases closed during the period October 1, 2008, through September 30, 2009.
- We found ****1*****⁵ of 247 cases for which the IRS improperly withheld information requested by the taxpayer. We arrived at the estimate by multiplying the total number of closed requests in the audit universe by the error rate for the 247 cases reviewed (14,983 x 0.4 percent error rate = 60 cases).

⁵ These point estimates are susceptible to the possibility of a relatively large amount of random error because of the small sample size and the rarity of incorrect denials. Our statistical projections are that the I.R.C. § 6103 errors are in the 3 to 286 range.



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Appendix V

Prior Treasury Inspector General for Tax Administration Freedom of Information Act Reports

Taxpayers Should Be Provided Timely Service When Appealing Denied Requests Under the Freedom of Information Act (Reference Number 2000-10-116, dated August 15, 2000).

The Internal Revenue Service Should Continue Taking Action to Improve Compliance With the Freedom of Information Act and Related Procedures (Reference Number 2001-10-112, dated July 25, 2001).

Actions Should Continue to Be Taken to Improve Compliance With the Freedom of Information Act and Related Procedures (Reference Number 2002-10-093 dated May 20, 2002).

Opportunity for Improvement Exists for Compliance With the Freedom of Information Act and Related Procedures (Reference Number 2003-10-164, dated August 22, 2003).

Improvements Are Needed to Ensure Compliance With the Freedom of Information Act (Reference Number 2004-40-064, dated March 30, 2004).

Some Improvements Have Been Made to Better Comply With Freedom of Information Act (Reference Number 2005-10-089, dated May 26, 2005).

Compliance With Freedom of Information Act Requirements Has Increased (Reference Number 2006-10-129, dated August 31, 2006).

The Office of Disclosure Can Improve Compliance With the Freedom of Information Act Requirements (Reference Number 2007-10-133, dated August 31, 2007).

The Office of Disclosure Continued to Improve Compliance With the Freedom of Information Act Requirements (Reference Number 2008-30-164, dated August 29, 2008).

The Office of Disclosure Continues to Improve Upon Its Response to Taxpayers' Requests Under the Freedom of Information Act (Reference Number 2009-30-115, dated September 4, 2009).