



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2013 STATUTORY REVIEW OF COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Issued on September 20, 2013

Highlights

Highlights of Report Number: 2013-30-109 to the Internal Revenue Service Director, Privacy, Governmental Liaison and Disclosure.

IMPACT ON TAXPAYERS

The IRS must ensure that the provisions of the Freedom of Information Act (FOIA), the Privacy Act of 1974 (Privacy Act), and Internal Revenue Code (I.R.C.) Section (§) 6103 are followed. 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 written requests for tax account information. TIGTA is also required to include the results in one of its Semiannual Reports to Congress. This is TIGTA's fourteenth review of denials of FOIA, Privacy Act, and I.R.C. § 6103 information requests.

The overall objective of this review was to determine whether the IRS improperly withheld information requested in writing based on 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 or did not exist.

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 55 FOIA/Privacy Act information requests from a population of 3,415 FOIA/Privacy Act requests and found nine (16.4 percent) in which taxpayer rights may have been violated because the IRS improperly withheld or failed to adequately search for and provide information to requestors. In addition, the IRS may have violated taxpayer rights by failing to adequately search for and provide information in three (5.6 percent) of 54 sampled I.R.C. § 6103 information requests. When the sample results are projected to their respective populations, approximately 559 FOIA/Privacy Act and 13 I.R.C. § 6103 information requests may have had information erroneously withheld.

All FOIA/Privacy Act information requests sampled were responded to timely. There are no statutory time frames within which the IRS must respond to I.R.C. § 6103 information requests. However, for 15 (27.8 percent) of the 54 I.R.C. § 6103 information requests, the IRS took more than 30 calendar days to provide a response.

Additionally, sensitive taxpayer information was inadvertently disclosed in response to nine (16.4 percent) of the FOIA/Privacy Act and four (7.4 percent) of the I.R.C. § 6103 information requests reviewed.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS: 1) require disclosure specialists to adhere to the general correspondence guidelines when processing I.R.C. § 6103 requests by specifying these time frames in the Disclosure section of the Internal Revenue Manual; and 2) emphasize the importance of disclosure laws and regulations with disclosure specialists and their managers.

The IRS agreed with both recommendations and plans to include time frames for processing I.R.C. § 6103 requests in the Internal Revenue Manual. The IRS plans to issue an interim guidance memorandum addressing this requirement before the end of the fiscal year. In addition, the IRS plans to develop a mandatory Disclosure Technical Update training session for all disclosure specialists. The IRS plans to include in the training the types of inadvertent disclosures found during this audit and also stress the need for a careful review of documents prior to their release to avoid unauthorized disclosures. The IRS plans to require the disclosure specialists to review this training annually.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2013reports/201330109fr.pdf>