
August 1996

TAX ADMINISTRATION

IRS Is Improving Its Controls for Ensuring That Taxpayers Are Treated Properly





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-271975

August 30, 1996

The Honorable William V. Roth, Jr.
Chairman, Committee on Finance
United States Senate

Dear Mr. Chairman:

In 1988, concerns about the Internal Revenue Service's (IRS) treatment of taxpayers and allegations of taxpayer abuse led Congress to enact Subtitle J of the Miscellaneous Revenue Act of 1988 (P.L. 100-647), commonly known as the Taxpayer Bill of Rights. In response to continuing congressional concerns about taxpayer rights, we issued a report¹ in which we concluded that IRS needed to take various actions to strengthen its controls to better ensure that taxpayers are treated properly.

This report responds to your request that we determine (1) the adequacy of IRS' controls to protect against taxpayer abuse; (2) the extent of information available concerning abuse allegations received and investigated by IRS, the Department of the Treasury Office of the Inspector General (OIG), and the Department of Justice (DOJ); and (3) the role of the OIG in investigating abuse allegations.

Background

IRS is responsible for administering our nation's voluntary tax system in a fair and equitable manner. To do so, IRS has roughly 100,000 employees, many of whom interact directly with taxpayers. In fiscal year 1994, IRS

- processed over 200 million tax returns,
- issued about 86 million tax refunds,
- handled about 39 million calls for tax assistance,
- conducted about 1.4 million tax audits, and
- issued about 19 million collection notices for delinquent taxes.

These activities resulted in millions of telephone and personal contacts with taxpayers. Many of these interactions have the potential to make taxpayers feel as if they have been mistreated or abused by IRS employees with whom they have dealt or by the "tax system" in general.

IRS has several offices that are involved in handling taxpayers' concerns about how they have been treated, including those alleging taxpayer

¹Tax Administration: IRS Can Strengthen Its Efforts to See That Taxpayers Are Treated Properly (GAO/GGD-95-14, Oct. 26, 1994).

abuse, which are not resolved through normal daily operations. IRS' Inspection Service (Inspection), which includes the Internal Audit and Internal Security Divisions, is to investigate taxpayer allegations involving potential criminal misconduct by IRS employees. Problem Resolution Offices in IRS' district offices and service centers are to help taxpayers who have been unable to resolve their problems through normal IRS channels with other IRS staff. IRS' Office of Legislative Affairs is to track responses to congressional inquiries, often on behalf of constituents, as well as direct correspondence with the Commissioner or other IRS executives involving the tax system or IRS' administration of it.

OIG and DOJ may also get involved with taxpayer abuse allegations. OIG may investigate allegations involving senior IRS officials, those who serve in General Schedule (GS) grade-15 positions or higher, as well as IRS Inspection employees. IRS employees accused of criminal misconduct may be prosecuted by a DOJ U. S. Attorney. IRS employees who are sued by taxpayers for actions taken within the employees' official duties may be defended by attorneys with the DOJ Tax Division.

In our 1994 report on IRS' controls to protect against taxpayer abuse, we were unable to determine the overall adequacy of IRS' controls and made several recommendations to improve them. Foremost among our recommendations was that IRS define taxpayer abuse and collect relevant management information to systematically track its nature and extent. At that time, in the absence of an IRS definition, we defined taxpayer abuse to include instances when (1) an IRS employee violated a law, regulation, or the IRS Rules of Conduct; (2) an IRS employee was unnecessarily aggressive in applying discretionary enforcement power; or (3) IRS' information systems broke down, e.g. when taxpayers repeatedly received tax deficiency notices and payment demands despite continual contacts with IRS to resolve problems with their accounts. Other recommendations in our 1994 report addressed such concerns as unauthorized access to computerized taxpayer information, improper use and processing of taxpayer cash payments, and the need for IRS notification of potential employee liability for trust fund recovery penalties. IRS did not agree with the need to define taxpayer abuse—a term it found objectionable—nor to track its nature and extent; but IRS agreed to take corrective action on many of our other recommendations.

Results in Brief

While IRS has made some improvements to its controls over the treatment of taxpayers since our 1994 report, we remain unable to reach a

conclusion on the overall adequacy of IRS' controls. We cannot determine the adequacy of these controls because IRS officials have not yet established a capability to capture management information that is needed to ensure that abuse is identified and addressed and to prevent its recurrence. We are, however, encouraged by a recent commitment on the part of IRS' Deputy Commissioner to establish a tracking system for taxpayer complaints. IRS has defined "taxpayer complaints" using a definition that is comparable to one we used for "taxpayer abuse" in our 1994 report and is currently reviewing its management information systems to determine the best way to capture the relevant information needed for a complaints tracking system. If effectively designed and implemented, we believe such a system could allow IRS to better ensure that instances of taxpayer abuse can be identified and addressed and that actions can be taken to prevent them in the future.

Since we last reported on IRS' controls to prevent taxpayer abuse, IRS has (1) initiated actions to implement many of the recommendations we made in our 1994 report (see app. I), (2) initiated other actions in anticipation of provisions included in the recently enacted Taxpayer Bill of Rights 2,² and (3) started to use data accumulated through its Problem Resolution Program in an effort to identify possible systemic problems. Examples of these actions include (1) improving controls over IRS employee access to computerized taxpayer accounts, (2) establishing an expedited appeals process for some IRS collection actions, and (3) identifying recurring taxpayer problems and categorizing them by major issues, such as penalties imposed on taxpayers. If effectively implemented, these cumulative actions could improve IRS' overall treatment of taxpayers and better protect against taxpayer abuse.

The extent to which taxpayer abuse allegations are received and investigated by IRS, OIG, and DOJ cannot be determined from readily available information. Information systems maintained by IRS, OIG, and DOJ were designed as case tracking and resource management systems intended to serve the management information needs of particular functions, such as IRS' Internal Security Division. (See appendix II.) None of these systems include specific data elements for "taxpayer abuse;" however, they contain data elements that encompass broad categories of misconduct, taxpayer problems, or legal actions. Without reviewing specific case files, information contained in these systems related to allegations and investigations of taxpayer abuse is not easily distinguishable from information on allegations and investigations that do

²Taxpayer Bill of Rights 2 (P.L. 104-168).

not involve taxpayers. Consequently, as currently designed, these systems cannot be used individually or collectively to account for IRS' handling of all instances of alleged taxpayer abuse.

OIG is responsible for investigating allegations of waste, fraud, and abuse—which includes misconduct—involving senior IRS officials, GS-15s or higher, as well as Inspection employees. OIG officials stated that these investigations rarely involve taxpayer abuse allegations, because senior IRS officials and Inspection employees usually do not interact directly with taxpayers. OIG officials said that they generally handle allegations involving IRS executives; but after a preliminary review, they often refer allegations against GS-15s and allegations involving administrative matters or tax disputes either to Inspection for investigation or to IRS management for administrative action. Both OIG and IRS officials expressed satisfaction with this arrangement and said they believe that allegations involving senior IRS officials and Inspection employees are being properly handled. While we did not independently test the effectiveness of this OIG/IRS arrangement, we found no evidence to suggest these allegations are not being properly handled.

Scope and Methodology

To determine the adequacy of IRS' current controls over taxpayer abuse, we identified and documented actions taken by IRS in response to the recommendations in our 1994 report. We also identified any additional actions that IRS has initiated since then, relative to how IRS treats taxpayers. Finally, we discussed with IRS officials a recent commitment they made to define and establish a taxpayer complaints tracking system and the current status of this effort.

To determine the extent of information available concerning the number and outcomes of abuse allegations received and investigated by IRS, OIG, and DOJ, we interviewed officials from the respective organizations and reviewed documentation relative to their information systems. We were told that the information systems maintained by these organizations do not include specific data elements for alleged taxpayer abuse. However, these officials said they believed that examples of alleged taxpayer abuse may be found within other general data categories in five IRS systems, two DOJ systems, and an OIG system. For example, IRS officials indicated that alleged taxpayer abuse might be found in a system used to track disciplinary actions against employees. This information is captured under the general data categories of "taxpayer charge or complaint" and "misuse

of position or authority.” Similar examples were provided by officials from each organization as described in appendix II.

We discussed the general objectives and uses of the relevant information systems with officials from the respective agencies. We also reviewed examples of the data produced by these systems under the suggested general data categories to ascertain if it was possible from these examples to determine whether taxpayer abuse may have occurred. We did not attempt to verify the accuracy of the data we received, because to do so would require an extensive, time-consuming review of related case files. This was beyond the scope and time available for this study.

To determine OIG’s role in investigating allegations of taxpayer abuse, we obtained and reviewed Treasury orders and directives establishing and delineating the responsibilities of OIG, as well as a 1994 Memorandum of Understanding between OIG and IRS outlining specific procedures to be followed by each staff for reporting and investigating allegations of misconduct and fraud, waste, and abuse. We also obtained statistics from OIG staff concerning the number of allegations they received and investigations they conducted involving IRS employees for fiscal year 1995—the latest year for which data were available. In addition, we discussed OIG’s role and the relationship between OIG and IRS staffs with senior officials from both OIG and IRS.

We requested comments on a draft of this report from the Commissioner of Internal Revenue, the Treasury Inspector General, and the Attorney General. On August 9, 1996, we received written comments from IRS, which are summarized on page 15 and are reprinted in appendix III. We also received written comments, which were technical in nature, from both the Treasury’s OIG and DOJ. These comments have been incorporated in the report where appropriate.

We performed our audit work in Washington, D.C., between April and July 1996 in accordance with generally accepted government auditing standards.

Adequacy of IRS Controls to Protect Against Taxpayer Abuse Remains Uncertain

While IRS has made improvements in its controls over the treatment of taxpayers since our 1994 report, we are still unable to reach a conclusion at this time on the overall adequacy of IRS' controls. We cannot determine the adequacy of these controls because IRS officials have not yet established a capability to capture management information, which is needed to ensure that abuse is identified and addressed and to prevent its recurrence. We are, however, encouraged by a recent commitment on the part of IRS' Deputy Commissioner to establish a tracking system for taxpayer complaints. Such a system has the potential to greatly improve IRS' controls to protect against taxpayer abuse and better ensure that taxpayers are treated properly.

IRS Officials Have Expressed Commitment to Establishing a Complaints Tracking System

In exploring how IRS could satisfy a mandate included in the recently enacted Taxpayer Bill of Rights 2 to report annually to Congress on employee misconduct and taxpayer complaints, IRS recognized and acknowledged that such a mandate could not be satisfied with its existing information systems and that a definition for "taxpayer complaints" would be necessary, along with sufficient related management information to ensure that complaints are identified, addressed, and analyzed to prevent their recurrence.

Although IRS said it still believes the term "taxpayer abuse" is misleading, inaccurate, and inflammatory, IRS decided to use the basic elements that we used in our 1994 report definition for taxpayer abuse as a starting point to develop a definition for taxpayer complaints. The basic elements from our report included when (1) an IRS employee violated a law, regulation, or the IRS Rules of Conduct; (2) an IRS employee was unnecessarily aggressive in applying discretionary enforcement power; or (3) IRS' information systems broke down, e.g. when taxpayers repeatedly received tax deficiency notices and payment demands despite continual contacts with IRS to resolve problems with their accounts.

With input from members of IRS' Executive Committee, an IRS task group decided upon the following definition for taxpayer complaints: an allegation by a taxpayer or taxpayer representative that (1) an IRS employee violated a law, regulation, or the IRS Rules of Conduct; (2) an IRS employee used inappropriate behavior in the treatment of taxpayers while conducting official business, such as rudeness, overzealousness, excessive aggressiveness, discriminatory treatment, intimidation, and the like; or (3) an IRS system failed to function properly or within prescribed time

frames. This definition was endorsed by the IRS Deputy Commissioner in a June 17, 1996, memorandum.

IRS has decided to use the Problem Resolution Office Management Information System (PROMIS), with modifications, as a platform for compiling information about taxpayer complaints involving inappropriate employee behavior and systemic breakdowns. However, numerous decisions remain concerning how to track and assess the handling of all taxpayer complaints. For example, IRS already has two systems that are designed to capture data relevant to alleged employee misconduct. PROMIS is currently designed to capture data relevant to possible systemic breakdowns. The two systems capturing misconduct information, however, do not capture data in a manner that is comparable to one another or to PROMIS. IRS officials readily concede that at present, there is no IRS information system designed to capture data relevant to complaints of inappropriate employee behavior. They realize that to capture and compile information relevant to all three elements of the taxpayer complaints definition in a comparable and uniform manner will be a considerable challenge, especially for the highly subjective element involving inappropriate employee behavior. However, the officials assured us that they are now committed to rising to that challenge.

While we are encouraged by IRS' commitment, we recognize the formidable challenge IRS faces to capture complete, consistent, and accurate information about the IRS definition for taxpayer complaints. Rising to the challenge, however, is critical for IRS to have adequate controls to protect against taxpayer abuse as well as being able to satisfy its new requirement to annually report to Congress on employee misconduct and taxpayer complaints.

Other IRS Initiatives Should Improve Related Controls

Since our 1994 study, IRS has initiated various actions to implement our recommendations, as described in appendix I. For example, among other actions, IRS has initiated the following :

- Regarding unauthorized employee access to computerized taxpayer accounts, IRS (1) issued a 12-point Information Security Policy to all employees in January 1995, stressing the importance of taxpayer privacy and the security of tax data and (2) has begun development of an Information System Target Security Architecture to include management, operational, and technical controls for incorporation in the Tax System

Modernization Program—a long-term effort to modernize IRS’ computer and telecommunications systems.³

- Regarding the improper use and processing of taxpayer cash payments, IRS (1) included statements in its 1995 forms and instructions encouraging taxpayers to make payments with either a check or money order rather than cash and (2) is instructing its managers to conduct periodic unannounced reconciliations of cash receipts used by the IRS staff who collect taxes from taxpayers.
- Regarding the need for IRS to notify employers of the potential liability of their officers and employees for a trust fund recovery penalty when businesses fail to collect or pay withheld income, employment, or excise taxes, IRS has included notices of this liability in both Publication 334, “Tax Guide for Small Businesses” and Circular E, “Employer’s Tax Guide.”

In addition to these actions, IRS has recently undertaken other initiatives in anticipation of some provisions included in the recently enacted Taxpayer Bill of Rights 2. In January 1996, IRS announced a series of initiatives designed to reduce taxpayer burden and make it easier for taxpayers to understand and exercise their rights. These initiatives included (1) enhanced powers for the Taxpayer Ombudsman, such as explicit authority to issue a refund to a taxpayer to relieve a severe financial hardship; (2) notification of a spouse regarding any collection action taken against a divorced or separated spouse for a joint tax liability; (3) increased computerized record storage and electronic filing options for businesses; (4) expedited appeals procedures for employment tax issues; and (5) a test of an appeals mediation procedure.

IRS has also started to use information on taxpayer problems captured in PROMIS. IRS recently used this system to identify the volume of taxpayer problems categorized by various major issues, such as refund inquiries, collection actions, penalties, and the earned income tax credit. The Ombudsman has requested IRS’ top executives to review the major issues identified for their respective offices or regions in an effort to devise cost-effective ways to reduce these problems.

While we did not test the implementation of these various initiatives, they appear to be conceptually sound and thus we believe that, if effectively implemented, they should help to strengthen IRS’ overall controls and procedures to identify, address, and prevent the recurrence of taxpayer abuse.

³In prior reports and testimonies, we have challenged the completeness and adequacy of IRS’ Architecture to effectively satisfy the modernization needs.

Extent of Taxpayer Abuse Not Distinguishable in IRS, OIG, and DOJ Information Systems

It is not possible to readily determine the extent to which allegations of taxpayer abuse are received and investigated from the information systems maintained by IRS, OIG, and DOJ. These systems were designed as case tracking and resource management systems intended to serve the management information needs of particular functions, such as IRS' Internal Security Division. None of these systems include specific data elements for "taxpayer abuse;" however, they contain data elements that encompass broad categories of misconduct, taxpayer problems, or legal actions. Without reviewing specific case files, information contained in these systems related to allegations and investigations of taxpayer abuse is not easily distinguishable from information on allegations and investigations that do not involve taxpayers. Consequently, as currently designed, these systems cannot be used individually or collectively to account for IRS' handling of all instances of alleged taxpayer abuse.

Officials of the respective organizations indicated that several information systems might include information related to taxpayer abuse allegations—five maintained by IRS, two by DOJ, and one by OIG—as described in appendix II. For example:

- Two of the IRS systems—the Internal Security Management Information System (ISMIS) and the Automated Labor and Employee Relations Tracking System (ALERTS)—capture information on cases involving employee misconduct, which may in some cases involve taxpayer abuse. ISMIS is used to determine the status and outcome of Internal Security investigations of alleged employee misconduct; ALERTS is used to track disciplinary actions taken against employees. While ISMIS and ALERTS both track aspects of alleged employee misconduct, these systems do not share common data elements or otherwise capture information in a consistent manner.
- IRS also has three systems that include information on concerns raised by taxpayers. These systems include two maintained by the Office of Legislative Affairs—the Congressional Correspondence Tracking System and the Commissioner's Mail Tracking System—as well as PROMIS, which we described earlier. The two Legislative Affairs systems basically track taxpayers' inquiries, including those made through congressional offices, to ensure that responses are provided by appropriate IRS officials. PROMIS tracks similar information to ensure that taxpayers' problems are resolved and to determine whether the problems are recurring in nature.

- OIG has an information system known as the OIG Office of Investigations Management Information System (OIG/OIMIS) that is used to track the status and outcomes of OIG investigations as well as the status and outcomes of actions taken by IRS in response to OIG investigations and referrals. As discussed further in the next section of this report, most OIG investigations do not involve allegations of taxpayer abuse because those IRS employees that OIG typically investigates—primarily senior-level officials—usually do not interact directly with taxpayers.
- DOJ has two information systems that include data that may be related to taxpayer abuse allegations and investigations. The Executive Office of the U. S. Attorneys maintains a Centralized Caseload System that is used to consolidate the status and results of civil and criminal prosecutions conducted by offices of the U. S. Attorney throughout the country. Cases involving criminal misconduct by IRS employees would be referred to and may be prosecuted by the U.S. Attorney in the particular jurisdiction in which the alleged misconduct occurred. The Tax Division also maintains a Case Management System that is used for case tracking, time reporting, and statistical analysis of litigation cases conducted by the Tax Division. Lawsuits against either IRS or IRS employees are litigated by the Tax Division, with representation provided to IRS employees if the Tax Division determines that the actions taken by the employees were within the scope of employment.

The officials familiar with these systems stated that, while the systems include data elements in which potential taxpayer abuse may have occurred, they do not include a specific data element for taxpayer abuse, which could be used to easily distinguish abuse allegations from others not involving taxpayers. For example, officials from the Executive Office for the U. S. Attorneys stated that the public corruption and tort categories of their Case Management System may include instances of taxpayer abuse, but the system could not be used to identify such instances without a review of individual case files.

From our review of data from these systems, we concluded that none of them, either individually or collectively, have common or comparable data elements that can be used to identify the number or outcomes of taxpayer abuse allegations or related investigations and actions. Rather, each system was developed to provide information for a particular organizational function, usually for case tracking, inventory, or other managerial purposes relative to the mission of that particular function. While each system has data elements that could reflect how taxpayers have been treated, as described in appendix II, the data elements vary and

may relate to the same allegation and same IRS employee. Without common or comparable data elements and unique allegation and employee identifiers, these systems do not collect information in a consistent manner that could be used to accurately account for all allegations of taxpayer abuse.

The Role of the Treasury OIG in Investigating Taxpayer Abuse Allegations

OIG is responsible for investigating allegations of misconduct and waste, fraud, and abuse involving senior IRS officials, GS-15s and above, as well as IRS Inspection employees. OIG also has oversight responsibility for the overall operations of Inspection. Since November 1994, OIG has had increased flexibility for referring allegations involving GS-15s to IRS for investigation or administrative action. This was due to resource constraints and an increased emphasis by OIG on investigations involving criminal misconduct and procurement fraud across all Treasury bureaus. In fiscal year 1995, OIG conducted 44 investigations—14 percent of the 321 allegations it received—for the most part, implicating senior IRS officials. OIG officials stated that these investigations rarely involved allegations of taxpayer abuse because senior IRS officials and Inspection employees usually do not interact directly with taxpayers.

OIG and Inspection have a unique relationship, relative to that of OIG and other Treasury bureau audit and investigative authorities. The IRS Chief Inspector, who reports directly to the IRS Commissioner, is responsible for IRS internal audits and investigations as well as coordinating Inspection activities with OIG. Inspection is to work closely with OIG in planning and performing its duties, and is to provide information on its activities and results to OIG for incorporation into OIG's semiannual report to Congress. Disputes the IRS Chief Inspector may have with the Commissioner can be resolved through OIG and the Secretary of the Treasury, to whom OIG reports.

The Department of the Treasury established the Office of the Inspector General (IG) consistent with the authority provided in the "Inspector General Act of 1978,"⁴ although Treasury already had internal audit and investigation capabilities for the Department as well as its bureaus. The existing capabilities included Inspection, which was responsible for all audits and investigations of IRS operations. Among OIG's express authorities were the investigation of allegations implicating senior IRS officials and the oversight of Inspection's audit and investigative activities.

⁴While Treasury had established an OIG consistent with the authority provided in the IG Act of 1978, the IG Act Amendments of 1988 provided statutory authority for a presidential appointed and Senate confirmed Treasury IG.

OIG resources to discharge these responsibilities were augmented in fiscal year 1990, by the transfer of 21 staff years from IRS' appropriations to that of OIG. The IG Act was amended in 1988 with special provisions included to, among other things, ensure the privacy of tax-related information. These provisions did not limit OIG's authority but required an explicit accounting of OIG's access to tax-related information in performing audits or investigations of IRS operations. The OIG's authorities were also articulated in Treasury Order 114-01 signed by the Secretary of the Treasury in May 1989.

Specifically related to OIG investigative authorities, in September 1992, the Treasury IG issued Treasury Directive 40-01 summarizing the authority vested in OIG and the reporting responsibilities of various Treasury bureaus. Among the responsibilities of law enforcement bureaus, including IRS, are to (1) provide a monthly report to OIG concerning significant internal investigative and audit activities, (2) notify OIG immediately upon receiving allegations involving senior officials or internal affairs or inspection employees, and (3) submit written responses to OIG detailing actions taken or planned in response to OIG investigative reports and OIG referrals for agency management action.

Under procedures established in a Memorandum of Understanding between OIG and IRS in November 1994, the requirement for immediate referrals to OIG of all misconduct allegations was reiterated and supplemented. OIG has the discretion to refer any allegation to IRS for appropriate action, i.e., either investigation by Inspection or administrative action by IRS management. If IRS officials believe that an allegation referred by OIG warrants OIG attention, they may refer the case back to OIG requesting that OIG conduct an investigation.

OIG officials advised us that under the original 1992 directive, they generally handled most allegations implicating Senior Executive Service (SES) and Inspection employees, while reserving the right of first refusal on GS-15 employees. Under the procedures adopted in 1994, which were driven in part by resource constraints and OIG's need to do more criminal misconduct and procurement fraud investigations across all Treasury bureaus, OIG officials stated they have generally referred allegations involving GS-15s and below to IRS for investigation or management action. The same is true for allegations against any employees, including those in SES, involving administrative matters and allegations dealing primarily with tax disputes. OIG officials said that a determination is made by OIG after a preliminary review of the merits of the allegations whether to investigate,

refer to IRS to either investigate or take administrative action, or to take no action at all. Table 1 summarizes the number and disposition of allegations received by OIG involving IRS in fiscal year 1995.

Table 1: Disposition of Allegations Involving IRS Employees Handled by Treasury OIG (FY 1995)

Disposition of allegation	Number
Referred to IRS ^a	201
No action taken	71
OIG investigation	44
Other	5
Total	321

^aOIG management information could not be used to distinguish between referrals to Internal Security or IRS management without reviewing related case files.

Source: OIG Management Information System.

In fiscal year 1995, OIG received 321 allegations, many of which involved senior IRS officials. After a preliminary review, OIG decided no action was warranted on 71 of the allegations, referred 201 to IRS—either for investigation or administrative action—investigated 44, and closed 5 others for various administrative reasons.

OIG officials stated that, based on their investigative experience, most allegations of wrongdoing by IRS staff that involve taxpayers do not involve senior level IRS officials or Inspection employees. Rather, these allegations typically involve those IRS Examination and Collection employees who most often interact directly with taxpayers.

OIG officials are to assess the adequacy of IRS' actions in response to OIG investigations and referrals as follows: (1) IRS is required to make written responses on actions taken within 90 days and 120 days, respectively, on OIG investigative reports of completed investigations and OIG referrals for investigations or management action; (2) OIG investigators are to assess the adequacy of IRS' responses before closing the OIG case; and (3) OIG Office of Oversight is to assess the overall effectiveness of IRS Inspection capabilities and systems through periodic operational reviews. In addition to assessing IRS' responses to OIG investigations and referrals, each quarter the IG, Deputy IG, and Assistant IG for Investigations meet to brief the IRS Commissioner, Deputy Commissioner, and Chief Inspector on the status of allegations involving senior IRS officials, including those being investigated by OIG and those awaiting IRS action.

While officials from both agencies agree that the arrangement is working well to ensure allegations involving senior IRS officials and Inspection employees are being handled properly, OIG officials expressed some concern with the amount of time IRS typically takes to respond with actions on OIG investigations and referrals. IRS officials acknowledged that responses are not always within OIG time frames because, among other reasons, determinations about taking disciplinary actions and imposing such actions may take a considerable amount of time. Also, they said some cases must be returned for additional development by OIG, which may prolong the time for completion. The IRS officials, however, also suggested that actions on OIG referrals are closely monitored as evidenced by their inclusion in discussions during quarterly IG briefings with the Commissioner. While we did not independently test the effectiveness of this OIG/IRS arrangement, we found no evidence to suggest these allegations are not being properly handled.

Conclusions

IRS has taken specific steps in relation to certain recommendations made in our 1994 report and initiated other actions to strengthen its controls over taxpayer abuse by its employees. Even so, at this time, we remain unable to determine the adequacy of IRS' system of controls to identify, address, and prevent instances of abuse. However, we are encouraged by IRS' recent decision to develop a taxpayer complaint tracking system that essentially adopts the definition of taxpayer abuse included in our 1994 report as a starting point for defining the elements of taxpayer complaints.

We believe this is a critically important commitment that IRS must sustain. If effectively designed and implemented, IRS should have an enhanced ability to identify, address, and protect against the mistreatment of taxpayers by IRS employees or the tax system in general. While we are encouraged by IRS' commitment, we also recognize the formidable challenge IRS faces in developing an effective complaints tracking system.

IRS needs a more effective complaints tracking system because, while IRS, OIG, and DOJ information systems contain data about the treatment of taxpayers, the data relevant to employee misconduct or taxpayer complaints are not readily or easily distinguishable from other allegations that do not involve taxpayers. The systems do not have the same employee identifiers or common data elements. Nor are the data captured in a consistent manner that allows for consolidation relative to the number or outcome of taxpayer complaints using the definition IRS is adopting.

Given IRS' recent commitment and related efforts it has under way to design and implement a taxpayer complaints tracking system and the recently enacted Taxpayer Bill of Rights 2, we are making no new recommendations at this time.

Agency Comments and Our Evaluation

The IRS Chief, Management and Administration commented on a draft of this report by letter dated August 9, 1996, (see app. III) in which he reiterated IRS' commitment to preserving and enhancing taxpayers' rights. The Treasury's OIG and DOJ also provided technical comments, which we incorporated in this report where appropriate.

As agreed with your staff, unless you announce the contents of this report earlier, we plan no further distribution of this report until 15 days from the date of this letter. At that time, we will send copies of this report to the Ranking Minority Member, Senate Committee on Finance; the Chairman and the Ranking Minority Member, Senate Committee on Governmental Affairs; and the Chairman and the Ranking Minority Member, House Committee on Ways and Means. We will also send copies to other interested congressional committees, the Commissioner of Internal Revenue, the Treasury Inspector General, the Attorney General, and other interested parties. We will also make copies available to others upon request.

The major contributors to this report are listed in appendix IV. If you have any questions concerning this report, please contact me at (202) 512-9044.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Natwar M. Gandhi', with a large, stylized loop at the end.

Natwar M. Gandhi
Associate Director, Tax Policy
and Administration Issues

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Abbreviations

ALERTS	Automated Labor and Employee Relations Tracking System
DOJ	Department of Justice
EOUSA	Executive Office of the United States Attorneys
GS	General Schedule
IDRS	Integrated Data Retrieval System
IG	Inspector General
IGP	Information Gathering Projects
IRS	Internal Revenue Service
ISMIS	Internal Security Management Information System
OIG	Office of Inspector General
OIG/OIMIS	Office of Inspector General Office of Investigations Management Information System
PROMIS	Problem Resolution Office Management Information System
SES	Senior Executive Service
TSM	Tax Systems Modernization

Summary of IRS Actions in Response to the 1994 GAO Report on Taxpayer Abuse

GAO recommendation	IRS action taken or planned
Establish a servicewide definition of taxpayer abuse or mistreatment and identify and gather the management information needed to systematically track its nature and extent.	IRS has recently established a definition for “taxpayer complaints” and is now committed to establishing a complaints tracking process.
Ensure that Tax Systems Modernization provides the capability to minimize unauthorized employees access to taxpayer information in the computer system that eventually replaces the Integrated Data Retrieval System.	Issued a 12-point Information Security Policy to all IRS staff; published “High-Level Security Requirements;” and started development of an Information System Target Security Architecture.
Revise the guidelines for information gathering projects to require that specific criteria be established for selecting taxpayers’ returns to be examined during each project and to require that there is a separation of duties between staff who identify returns with potential for tax changes and staff who select the returns to be examined.	Issued an updated memorandum to field staff regarding the highly sensitive nature of information gathering projects.
Reconcile all outstanding cash receipts more often than once a year and stress in forms, notices, and publications that taxpayers should use checks or money orders whenever possible to pay their tax bills, rather than cash.	IRS is instructing its managers to conduct random unannounced reconciliations of cash receipts used by IRS staff who receive cash payments from taxpayers. Revised Publication 594, “Understanding the Collection Process,” Publication 17, “Your Federal Income Tax,” and the 1995 1040 tax package to encourage taxpayers to pay with checks or money orders, rather than cash.
Better inform taxpayers about their responsibility and potential liability for the trust fund recovery penalty by providing taxpayers with special information packets.	Revised Publication 334, “Tax Guide for Small Business,” and Circular E, “Employer’s Tax Guide,” to explain the potential liability for the trust fund recovery penalty if amounts withheld are not remitted to the government; and started including Notice 784, “Could You Be Personally Liable for Certain Unpaid Federal Taxes?” with the first balance due notice for business taxes.
Provide specific guidance for IRS employees on how they should handle White House contacts other than those involving tax checks of potential appointees or routine administrative matters.	No actions taken or planned. Because we did not find instances of improper contacts, IRS is of the opinion that current procedures covering third-party contacts are adequate.
Seek ways to alleviate taxpayers’ frustration in the short term by analyzing the most prevalent kinds of information-handling problems and ensuring that requirements now being developed for Tax Systems Modernization information systems provide for long-term solutions to those problems.	Requested top executives to review major issues the Ombudsman identified via the Problem Resolution Program that have resulted in repeat taxpayer problems.

Source: 1994 GAO report and IRS responses and subsequent actions.

IRS, Treasury OIG, and DOJ Information Systems With Data Elements on Potential Taxpayer Abuse

Name of information system	Primary use of information system	Data elements in which potential taxpayer abuse may be found ^a
IRS - Internal Security Management Information System (ISMIS)	Internal Security management use this system to track the status of investigations and for operational and workload management.	<ul style="list-style-type: none"> —Miscellaneous employee misconduct —Computer improper access —Intimidation/harassment —Disclosure of confidential information
IRS - Automated Labor and Employee Relations Tracking System (ALERTS)	Labor Relations staff use this system to track the status and results of possible disciplinary action relative to IRS employee behavior.	<ul style="list-style-type: none"> —Taxpayer charge or complaint —Misuse of position/authority
IRS - Problem Resolution Office Management Information System (PROMIS)	Problem Resolution Office staff use this system to monitor the status of open taxpayer problems to generate statistics on the volume of problems received by major categories.	<ul style="list-style-type: none"> —Taxpayer treatment —Collection actions
IRS - Commissioner's Mail Tracking System	Legislative Affairs staff use this system to track correspondence to the Commissioner and other IRS office heads/executives.	<ul style="list-style-type: none"> —Complaints
IRS - Congressional Correspondence Tracking System	Legislative Affairs staff use this system to track correspondence from congressional sources and from referrals by the Treasury Department and the White House.	<ul style="list-style-type: none"> —Integrity —Employee conduct
Treasury OIG - Office of Investigations Management Information System (OIG/OIMIS)	OIG management and desk officers use the system to monitor the status of OIG investigations and to monitor whether required responses to OIG investigations and referrals to the Treasury bureaus, such as IRS, have been received.	<ul style="list-style-type: none"> —Tax dispute/inquiry —Unethical/improper conduct —Criminal/other
DOJ EOUSA ^b - Centralized Caseload System	EOUSA management use the system to monitor the status and results of civil and criminal prosecutions and to oversee field office caseloads.	<ul style="list-style-type: none"> —Torts —Public corruption
DOJ Tax Division - Case Management System	Tax Division management uses the system to monitor the status and results of civil and criminal cases, manage attorney caseloads, and prepare internal and external reports, such as for the Office of Management and Budget and the Congress.	<ul style="list-style-type: none"> —Torts —Suits for unauthorized disclosure of tax information —Suits for failure to release a lien or for unreasonable IRS collection action

^aBased on the opinion of agency officials responsible for these information systems, these systems do not include a specific data element for "taxpayer abuse."

^bEOUSA is Executive Office of the U.S. Attorneys.

Source: IRS, Treasury OIG, and DOJ officials and related information system documents.

Comments From the Internal Revenue Service



CHIEF MANAGEMENT
AND ADMINISTRATION

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

AUG 9 1996

Ms. Lynda Willis
Director, Tax Policy and Administration Issues
General Accounting Office
Washington, DC 20548

Dear Ms. Willis:

I appreciate your providing us with a copy of the recent draft report "Tax Administration: IRS Is Working To Improve Its Controls to Better Ensure That Taxpayers Are Treated Properly," and am pleased that it contained no new recommendations.

As you know, and the draft report states, the Internal Revenue Service is committed to preserving and enhancing taxpayers' rights, and took administrative steps earlier this year to do so, including revising Publication 1, "Your Rights As A Taxpayer." With the approval of the Taxpayer Bill of Rights II, our ability to assist taxpayers is increased. We are committed to developing a taxpayer complaints tracking system that meets the requirements of TBOR II, and will be asking for your input as well as other stakeholders as we proceed with the design.

Sincerely,

A handwritten signature in dark ink, appearing to read "David A. Mader".
David A. Mader

Major Contributors to This Report

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