

**JOINT HEARING BEFORE THE  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
SUBCOMMITTEE ON HEALTH CARE, BENEFITS  
AND ADMINISTRATIVE RULES AND  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
U.S. HOUSE OF REPRESENTATIVES**

**“Continued Oversight of the  
Internal Revenue Service”**



**Testimony of  
The Honorable J. Russell George  
Treasury Inspector General for Tax Administration**

**April 17, 2018**

**Washington, D.C.**

TESTIMONY  
OF  
THE HONORABLE J. RUSSELL GEORGE  
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION  
*before the*  
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Chairman Jordan, Chairman Meadows, Ranking Member Krishnamoorthi, Ranking Member Connolly, and Members of the Subcommittees, thank you for the opportunity to provide a status report on the 2018 Filing Season<sup>1</sup> and other challenges currently facing the Internal Revenue Service (IRS).

The Treasury Inspector General for Tax Administration (TIGTA) was created by Congress in 1998 with a statutory mandate of ensuring integrity in America’s tax system. It provides independent audit and investigative services to improve the economy, efficiency, and effectiveness of IRS operations. TIGTA’s oversight activities are designed to identify high-risk systemic inefficiencies in IRS operations and to investigate exploited weaknesses in tax administration. TIGTA plays the key role of ensuring that the approximately 81,000 IRS employees<sup>2</sup> who collected more than \$3.4 trillion in tax revenue, processed more than 246 million tax returns, and issued more than \$437 billion in tax refunds during Fiscal Year (FY) 2017,<sup>3</sup> have done so in an effective and efficient manner while minimizing the risk of waste, fraud, and abuse.

In this section of my testimony, I will discuss the status of the 2018 tax return filing season, the IRS’s efforts to implement recently enacted tax legislation, and our work to address other key management challenges.

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<sup>1</sup> The period from January 1 through mid-April when most individual tax returns are filed.

<sup>2</sup> Total IRS staffing as of January 7, 2017. Included in the total are approximately 16,200 seasonal and part-time employees.

<sup>3</sup> IRS, *Management’s Discussion & Analysis, Fiscal Year 2017*.

## **STATUS OF THE 2018 FILING SEASON**

In April 2018, TIGTA reported its interim results of the IRS's 2018 Filing Season, and we plan to issue a report with the final results of our analysis later this calendar year. During Calendar Year (CY) 2018, the IRS expects to receive approximately 153.7 million individual income tax returns (approximately 16.2 million paper filed and 137.5 million electronically filed (e-filed)). As of March 2, 2018, the IRS had received approximately 61.2 million tax returns — 57.8 million (94.5 percent) were e-filed and 3.4 million (5.5 percent) were filed on paper. The IRS has issued 48.5 million refunds totaling approximately \$147.6 billion.

One challenge that the IRS faces each year is the implementation of tax law changes. The Protecting Americans from Tax Hikes Act of 2015 (PATH Act)<sup>4</sup>, the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (Disaster Relief Act),<sup>5</sup> and the Tax Cuts and Jobs Act of 2017<sup>6</sup> all affected the 2018 Filing Season. The PATH Act includes provisions intended to reduce fraudulent refundable tax credit claims. The Disaster Relief Act, enacted in September 2017, includes provisions to provide assistance to victims of hurricanes Harvey, Irma, and Maria. The Tax Cuts and Jobs Act of 2017 includes 119 tax provisions that will result in significant changes to both business and individual income taxes. Although most of these provisions impact Tax Year 2018 and beyond, there are 21 provisions that affect the 2018 Filing Season requiring the IRS to take immediate action.

The passage of the Bipartisan Budget Act of 2018,<sup>7</sup> which was signed into law on February 9, 2018, presents even greater challenges. This legislation includes an additional 51 provisions that extend expired tax provisions and make further modifications to disaster relief provisions. Thirty-one of the 51 (61 percent) tax provisions relate to deductions and credits that can be claimed on a 2017 tax return. These 31 provisions require the IRS to update publications, forms, instructions, and computer programming to allow taxpayers to take advantage of these provisions. In fact, some taxpayers may have already filed tax returns based on previously expired tax law and may now need to amend their returns. We are evaluating the implementation of these extender provisions as part of a separate review.

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<sup>4</sup> Pub. L. No. 114-113, Div. Q, 129 Stat. 2242, 3040-128 (codified in scattered sections of the I.R.C).

<sup>5</sup> Pub L. No. 115-63, 131 Stat. 1168 (codified in scattered sections of the I.R.C. and Title 49 of the U.S. Code).

<sup>6</sup> Pub L. No. 115-97, 131 Stat. 2054.

<sup>7</sup> Pub. L. No. 115-123, 132 Stat. 64.

## ***Increased technology-based services to provide taxpayer assistance***

Taxpayers have multiple options to choose from when they need assistance from the IRS. The IRS notes that its website is the best source for taxpayers to receive answers to their tax questions. As of March 3, 2018, the IRS reported 242.9 million visits to IRS.gov this filing season. Taxpayers can also interact with the IRS using the mobile application IRS2Go, which lets taxpayers access information and a limited number of IRS online tools. As of March 1, 2018, the IRS reported that the IRS2Go mobile application had 5.6 million active users. In addition, the IRS uses various forms of social media, including YouTube, Twitter, Tumblr, and Facebook. As of March 1, 2018, there were 393,447 views of IRS YouTube videos and a total of 156,733 Twitter followers.

The risk of unauthorized access to tax accounts increases as the IRS expands its online tools. For example, in March 2018, we reported concerns over the IRS's Transcript Delivery System (TDS), which allows external third-party customers to view and obtain tax information of both individuals and businesses.<sup>8</sup> We found that processes and procedures to authenticate e-Services users, including those users accessing the TDS application, do not comply with Federal Government information security standards. The IRS continued to use single-factor authentication to authenticate users even though a risk-assessment in both CYs 2011 and 2015 rated e-Services as requiring multifactor authentication.

Furthermore, we reported that the IRS has ineffective processes and procedures to ensure that legitimate taxpayers authorized the release of their tax transcript information to Income and Verification Express Services (IVES) Program participants or the participants' clients. We recommended that the IRS implement processes and procedures to ensure that legitimate taxpayers authorized the release of their tax transcripts. In addition, we recommended that the IRS discontinue offering tax transcripts via those processes in which the IRS cannot confirm whether legitimate taxpayers authorized the release of their tax transcripts.

It is critical that the methods that the IRS uses to authenticate individuals' identities provide a high level of confidence that tax information and services are provided only to individuals who are entitled to receive them. In February 2018, TIGTA reported that the IRS has made progress in improving its electronic authentication

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<sup>8</sup> TIGTA, Ref. No. 2018-40-014, *Transcript Delivery System Authentication and Authorization Processes Do Not Adequately Protect Against Unauthorized Release of Tax Information* (Mar. 2018).

controls.<sup>9</sup> For example, the IRS deployed a more rigorous electronic authentication process that provides two-factor authentication via a security code sent to text-enabled mobile phones. The IRS also completed or updated electronic authentication risk assessments for 28 of its online applications to determine appropriate levels of authentication assurance, and enhanced its network monitoring and audit log analysis capabilities.

However, our review also identified that network monitoring tools the IRS purchased to improve the prevention and detection of automated attacks were not fully implemented due to issues related to resources, incompatibility, and higher priorities. In addition, controls to prevent fraudulent users from improperly creating profiles were not fully implemented. Further, the IRS is not fulfilling requirements for monitoring audit logs for suspicious activity. This is due to inadequate processes for generating and reviewing audit log reports as well as failure to ensure that reports are useful for investigating and responding to suspicious activities.

### ***Toll-free telephone level of assistance increases***

As of March 17, 2018, approximately 33 million total attempts and 23.1 million net attempts<sup>10</sup> were made by taxpayers to call the IRS through the various customer service toll-free telephone assistance lines. The IRS reports that 11.8 million calls were answered by automation, while telephone assistors answered nearly 6.4 million calls and provided a 78.1 percent Level of Service<sup>11</sup> with a six minute Average Speed of Answer. The IRS forecasts an 80 percent Level of Service for the 2018 Filing Season. The Level of Service for the 2017 Filing Season was 79.1 percent.<sup>12</sup> TIGTA has a separate audit assessing the IRS's telephone performance measures.<sup>13</sup>

### ***Initiatives to better assist taxpayers seeking face-to-face assistance***

Each year, many taxpayers seek assistance from one of the IRS's 363 walk-in offices (Taxpayer Assistance Centers, or TACs). Although the IRS reports that it has 363 TACs for the 2018 Filing Season, 24 TACs are not open because they are not staffed. The IRS plans to assist approximately 3 million taxpayers at the TACs in FY

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<sup>9</sup> TIGTA, Ref. No. 2018-20-007, *Electronic Authentication Process Controls Have Been Improved, But Have Not Yet Been Fully Implemented* (Feb. 2018).

<sup>10</sup> Total call attempts represent calls received during open and after hours. Total net call attempts represent calls received during open hours.

<sup>11</sup> The primary measure of service to taxpayers. It is the relative success rate of taxpayers who call for live assistance on the IRS's toll-free telephone lines.

<sup>12</sup> As of April 22, 2017.

<sup>13</sup> TIGTA, Audit No. 201840025, Follow-up Review of Telephone Performance Measures.

2018, approximately a 9 percent decrease from FY 2017. The IRS indicated that due to budget cuts, its strategy of appointment service at the TACs, and continued promotion of alternative service options, it has reduced the number of employees who assist taxpayers at the TACs.

To better assist those individuals seeking assistance from a TAC, the IRS transitioned all of its TACs to an appointment service model. As of February 28, 2018,<sup>14</sup> IRS employees had answered nearly 1 million calls to schedule an appointment; 492,000 of these necessitated that the taxpayers actually visit a TAC. Because the IRS attempts to resolve taxpayers' questions or provide the taxpayers with information on alternative services when they call, it was able to assist 466,000 taxpayers on the telephone, eliminating the need for the taxpayers to visit a TAC. The IRS also noted that taxpayers who travel to a TAC without an appointment will be assisted if an employee is available. As of February 28, 2018, the IRS reported that it provided assistance to nearly 96,000 taxpayers who visited a TAC without an appointment.

The IRS also offers Virtual Service Delivery, which allows taxpayers to remotely interact with an IRS employee through both video and audio. For example, a taxpayer can access an IRS virtual service workstation at a public library or nonprofit and interact with an IRS employee located at a TAC. For the 2018 Filing Season, three IRS business units offer Virtual Service Delivery. Field Assistance offers the service at 31 partner sites. The Office of Appeals operates 10 Virtual Service Delivery sites at a combination of IRS offices and partner sites that enable taxpayers to interact with an Appeals officer located at an IRS campus. The Taxpayer Advocate Service offers Virtual Service Delivery at three partner sites and one IRS office. In addition, the IRS continues to co-locate staff with the Social Security Administration (SSA) to better assist taxpayers. The IRS has placed employees in four SSA locations.<sup>15</sup>

The Volunteer Program also has a significant role in the IRS's efforts to improve taxpayer service and facilitate participation in the tax system. It provides no-cost Federal tax return preparation and e-filing to underserved segments of the taxpayer population, including low-income, elderly, disabled and rural taxpayers, those with limited English proficiency, and Native Americans. As of March 4, 2018, approximately 1.5 million tax returns have been prepared at the 9,666 Volunteer Program sites

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<sup>14</sup> Thus far for FY 2018, *i.e.*, October 1, 2017, through February 28, 2018.

<sup>15</sup> Norwich, Connecticut; Presque Isle, Maine; North Platte, Nebraska; and Denville, Virginia.

nationwide. TIGTA is currently conducting a review of the IRS's efforts to expand customer service options to taxpayers seeking face-to-face assistance.<sup>16</sup>

## **IMPLEMENTATION OF NEW TAX LEGISLATION**

The Tax Cuts and Jobs Act made significant changes to the tax code that impact individuals, businesses, and tax-exempt organizations, and will affect both domestic and international taxes. In April 2018,<sup>17</sup> TIGTA reported on our initial assessment of the IRS's implementation efforts. This is the first report in a series of reviews that we will be conducting to monitor the IRS's efforts to implement the first major tax reform legislation in more than 30 years. The IRS indicates that implementation will require it to create or revise about 450 forms, publications, and instructions and modify about 140 information technology systems (for tax return processing and compliance activities).

Prior to the enactment of the Tax Cuts and Jobs Act, the IRS's Legislative Affairs function monitored the pending legislation to identify provisions that would affect the IRS, and in turn informed the various IRS operating divisions so they could begin to assess how to achieve the implementation. Once the law was enacted, the IRS used several well-established processes to immediately begin the difficult and large-scale task of implementing it. For example, Legislative Affairs:

- Input the tax provisions into the Legislative Analysis Tracking and Implementation Services (LATIS) system, which is used to manage, coordinate, and track the actions that the IRS takes to implement legislative provisions. Our comparison of provisions in the Tax Cuts and Jobs Act to the LATIS found that the IRS has established tracking of all provisions.
- Worked with the various IRS operating divisions to identify the division responsible for implementing each of the provisions and required each such division to develop an Implementation Action Plan. Action plans outline the steps that need to be taken to implement a provision, as well as estimated delivery dates. As of March 6, 2018, Implementation Action Plans were received and specific action items were entered into the LATIS for all provisions.

The IRS also established a multifaceted oversight structure to coordinate implementation activities. This included creating an Executive Steering Committee to

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<sup>16</sup> TIGTA, Audit No. 201840028, *Strategy to Assist Taxpayers Who Seek Face-to-Face Assistance*, audit currently in planning.

<sup>17</sup> TIGTA, Ref. No. 2018-44-027, *Tax Cuts and Jobs Act: Assessment of Implementation Planning Efforts* (Apr. 2018).

ensure collaboration takes place among the various IRS operating divisions and address areas of concern that may arise. The IRS also stood up the Tax Reform Implementation Office (TRIO) to centralize responsibility for leading and coordinating IRS implementation efforts. Finally, the IRS created the Tax Reform Implementation Council to share implementation activities among the individual operating divisions to identify areas of concern for issues that may impact other operating divisions.

Recognizing the resources needed to implement legislation of this scale, the IRS worked with the Department of the Treasury and estimated that implementation would cost approximately \$397 million, which includes hiring 1,734 full-time equivalent positions to implement tax reform over the next two calendar years. The recently enacted Consolidated Appropriations Act, 2018,<sup>18</sup> provides the IRS with \$320 million to implement new tax legislation.

The IRS's Communications and Liaison function is developing and preparing to deliver a major educational outreach initiative to help ensure that taxpayers understand and navigate the changes in the Tax Cuts and Jobs Act. This outreach strategy includes hundreds of events and sessions across the country to reach taxpayers and tax professionals. For example, during the week of February 5, 2018, the IRS conducted five working group sessions with external stakeholders to field comments, questions, and concerns about the new tax law and offer information.

To support other customer service-related initiatives, the IRS is developing projections related to the number of toll-free telephone calls and individuals seeking walk-in assistance. The IRS will then use these estimates to develop specific hiring plans for telephonic and walk-in assistance. The IRS is also assessing its hiring needs for delivering the appropriate information technology system changes, including whether direct hire authority will be required. Direct hire authority is intended to reduce the length of the hiring process, which the IRS estimates takes anywhere from 90 to 120 calendar days.

### ***Implementation of the Employer Shared Responsibility Payment***

The IRS is also continuing to implement key provisions of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act (ACA)),<sup>19</sup> including the

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<sup>18</sup> Pub. L. No. 115-141.

<sup>19</sup> Pub. L. No. 111-148, 124 Stat. 119 (codified as amended in scattered sections of the U.S. Code), as amended by Pub. L. No. 111-152, 124 Stat. 1029.

Employer Shared Responsibility Provision. The Employer Shared Responsibility Provision applies to employers that had an average of 50 or more full-time employees, including full-time equivalent employees, during the prior calendar year. These employers are referred to as Applicable Large Employers. Under the provision, Applicable Large Employers must offer health insurance to full-time employees (and their dependents) during the calendar year through an employer-sponsored plan beginning in January 2015, or a shared responsibility payment may apply.

On November 1, 2017, the IRS began sending letters advising Applicable Large Employers of their potential assessments of the Employer Shared Responsibility Payment for Tax Year 2015. The IRS uses a multi-step process to identify the Applicable Large Employers that are potentially responsible for the Employer Shared Responsibility Payment. For Tax Year 2015, the IRS identified 32,240 Applicable Large Employers with potential Employer Shared Responsibility Payments totaling over \$4.3 billion. However, TIGTA reported that the IRS's process to identify Tax Year 2015 Applicable Large Employers potentially liable for the Employer Shared Responsibility Payment failed to identify 840 employers potentially subject to more than \$113 million in Employer Shared Responsibility Payments.<sup>20</sup> The difference in identified Applicable Large Employers occurred because the data used by the IRS were not complete or accurate.

## **INFORMATION TECHNOLOGY CHALLENGES**

Successful modernization of IRS systems and the development and implementation of new information technology applications are critical to meeting the IRS's evolving business needs, as well as to enhancing services provided to taxpayers. The IRS's reliance on legacy, *i.e.*, older, systems and aged hardware, as well as its use of outdated programming languages, pose significant risks to the IRS's ability to accomplish its mission. Modernizing the IRS's computer systems has been a persistent challenge for many years and will likely remain a challenge for the foreseeable future.

The IRS has a large and increasing amount of aged computer hardware, some of which are three to four times older than industry standards. In its FY 2016 President's Budget Request, the IRS noted that its information technology infrastructure poses significant risk of failures. However, it is unknown when these failures will occur, how severe they will be, or whether they will have material impacts on tax administration during the filing season.

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<sup>20</sup> TIGTA, Ref. No. 2018-43-022, *Affordable Care Act: Processes to Identify Employers Subject to the Employer Shared Responsibility Payment Need Improvement* (Mar. 2018).

In September 2017, TIGTA reported that the IRS has not yet achieved its stated objective of reducing the percentage of its aged information technology hardware to an acceptable level of 20 to 25 percent. In fact, the IRS's percentage of aged information technology hardware has steadily increased from 40 percent at the beginning of FY 2013 to 64 percent at the beginning of FY 2017.<sup>21</sup> Aged information technology hardware, when combined with the fact that components of the infrastructure and systems are interrelated and interdependent, make outages and failures unpredictable and introduce security risks to critical taxpayer data.

## **EFFORTS TO COMBAT IDENTITY THEFT AND ASSIST VICTIMS**

TIGTA has issued a number of reports that address the IRS's efforts to detect and prevent the filing of fraudulent individual and business tax returns by identity thieves, as well as the IRS's efforts to assist victims. Tax scams are constantly evolving, requiring the IRS to continually adapt its detection and prevention processes. The IRS continues to improve its processes to detect and resolve identity-theft issues and provide victim assistance. Nonetheless, additional actions can be taken to further these efforts.

Identity-theft tax refund fraud occurs when an individual uses another person's or business's name and Taxpayer Identification Number to file a fraudulent tax return for the purpose of receiving a fraudulent tax refund. For the 2018 Filing Season, the IRS is using 200 identity-theft filters to identify potentially fraudulent individual tax returns and prevent the issuance of fraudulent tax refunds. These filters incorporate criteria based on characteristics of confirmed identity-theft tax returns, such as amounts claimed for income and withholding, filing requirements, prisoner status, taxpayer age, and filing history. Tax returns identified by these filters are held during processing until the IRS can verify the taxpayer's identity. As of March 1, 2018, the IRS reported that the identity-theft filters had helped identify 682,530 potentially fraudulent returns for review. As of that date, the IRS had confirmed 1,571 fraudulent tax returns and prevented the issuance of \$7.3 million in fraudulent tax refunds.

To prevent fraudulent tax returns from entering the tax processing system, the IRS continues to expand processes to reject e-filed tax returns and prevent paper tax returns from posting. For example, as of February 21, 2018, the IRS had locked approximately 35.7 million taxpayer accounts of deceased individuals. The locking of a

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<sup>21</sup> TIGTA, Ref. No. 2017-20-051, *Sixty-Four Percent of the Internal Revenue Service's Information Technology Hardware Infrastructure Is Beyond Its Useful Life* (Sept. 2017).

tax account results in the rejection of an e-filed tax return and the prevention of a paper-filed tax return from posting to the Master File if the Social Security Number (SSN) associated with a locked tax account is used to file a tax return. According to the IRS, as of February 28, 2018, it had rejected approximately 7,376 fraudulent e-filed tax returns, and as of March 15, 2018, it had stopped 1,442 paper-filed tax returns from posting to the Master File.

In September 2015, TIGTA reported on the IRS's efforts to address the growing threat of business-related identity theft. In response to our audit, the IRS began implementing processes to detect identity theft on business returns at the time tax returns are processed.<sup>22</sup> The IRS developed filters to identify business returns with characteristics of identity theft. According to the IRS, for the 2018 Filing Season it increased the number of filters from 28, used in the 2017 Filing Season, to 44 in order to identify potentially fraudulent business tax returns and prevent the issuance of fraudulent tax refunds. TIGTA is currently conducting a follow-up audit.<sup>23</sup>

### ***Most employment identity theft victims have not been notified***

Taxpayers' stolen identities are sometimes used by others to gain employment. This type of identity theft can cause a significant burden due to the incorrect computation of taxes and Social Security benefits based on income that does not belong to the taxpayer. In February 2018, TIGTA reported<sup>24</sup> that most identified victims remain unaware that their identities are being used by other individuals for employment. A programming error limited the IRS notifications to only those victims who were not identified in prior years. As a result, the IRS did not notify 458,658 repeat victims of employment identity theft that it identified in both Processing Year (PY) 2017 and on a tax return processed prior to PY 2017. On September 27, 2017, the IRS prepared an information technology request to correct this programming error.

The IRS plans to evaluate its notice program and determine an appropriate course of action with respect to previously identified potential victims of employment identity theft who were not victims in PY 2017. During the period February 2011 to December 2015, the IRS identified almost 1.1 million taxpayers who were victims of employment identity theft. These individuals have not been notified that their identities are being used by others for employment.

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<sup>22</sup> TIGTA, Ref. No. 2015-40-082, *Processes Are Being Established to Detect Business Identity Theft; However, Additional Actions Can Help Improve Detection* (Sept. 2015).

<sup>23</sup> TIGTA, Audit No. 201740007, *Effectiveness of IRS Efforts to Detect and Prevent Identity Theft*, report scheduled for June 2018.

<sup>24</sup> TIGTA, Ref. No. 2018-40-016, *Most Employment Identity Theft Victims Have Not Been Notified That Their Identities Are Being Used by Others for Employment* (Feb. 2018).

## **REFUND FRAUD INVOLVING USE OF PRISONER SOCIAL SECURITY NUMBERS**

Refund fraud associated with the use of prisoner SSNs remains a significant problem for tax administration. TIGTA has issued a number of reports on this issue, and the IRS has taken steps to improve its processes. However, further improvements can be made to increase the IRS's identification of prisoner returns. In CY 2016, the IRS identified more than 14,000<sup>25</sup> fraudulent tax returns as a result of its prisoner fraud filters. The refunds claimed on those tax returns totaled more than \$860 million. As a result of its other fraud detection efforts, *i.e.*, identity-theft filters, the IRS also prevented the issuance of an additional \$8.2 billion in refunds claimed using prisoner SSNs.

To combat refund fraud associated with tax returns filed using prisoner SSNs, the IRS compiles a list of prisoners (the Prisoner File) received from the Federal Bureau of Prisons and State Departments of Corrections. To further its efforts to identify prisoner tax returns, the Bipartisan Budget Act of 2013,<sup>26</sup> enacted in December 2013, amended the Improper Payments Elimination and Recovery and Improvement Act,<sup>27</sup> authorizing the IRS to use prisoner information provided by the SSA. The IRS first began using the SSA prisoner file as part of the 2017 Filing Season prisoner identification process.

In July 2017, TIGTA reported that IRS processes do not effectively ensure that the Federal Bureau of Prisons and the State Departments of Corrections comply with prisoner reporting requirements.<sup>28</sup> TIGTA identified 861 prisons that reported to the SSA but did not report to the IRS. TIGTA also identified 272,931 prisoners who were in Federal Bureau of Prisons or State Departments of Corrections facilities but were not reported to the IRS. Approximately \$48 million in potentially fraudulent refunds were claimed by 16,742 individuals incarcerated in institutions that did not report to the IRS.

In addition, TIGTA found that the IRS processes to validate and use prisoner data are limited in their ability to detect potentially fraudulent tax returns. For example, the IRS does not use prisoner records where the information provided by the reporting institution for a prisoner is not valid to process tax returns. As such, any return filed

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<sup>25</sup> This is a 41 percent decrease from CY 2015. The IRS attributes the decline to fraudsters submitting fewer claims as a result of it paying fewer refunds in prior years because of improved screening processes.

<sup>26</sup> Pub. L. No. 113-67, § 204, 127 Stat. 1165, 1179-81.

<sup>27</sup> Pub. L. No. 111-204, 124 Stat. 2224 (2010).

<sup>28</sup> TIGTA, Ref. No. 2017-40-041, *Actions Need to Be Taken to Ensure Compliance With Prisoner Reporting Requirements and Improve Identification of Prisoner Returns* (July 2017).

using the mismatched prisoner information will not be evaluated for potential prisoner fraud. Our review of the 1.1 million records that the IRS identified as having a mismatch found that 471,864 (41 percent) contained a valid SSN, *i.e.*, an SSN issued by SSA, in IRS files, which could indicate a prisoner's use of a stolen SSN.

Finally, TIGTA also found that the validation process incorrectly identified 4,158 prisoner records as not matching IRS records when, in fact, the information provided by the Federal Bureau of Prisons and State Departments of Corrections did match IRS records. As a result, any tax return filed using one or more of these prisoner identities will not be assigned a prisoner indicator or evaluated using the prisoner fraud filters. TIGTA identified 1,113 tax returns with refunds totaling more than \$1.7 million that were not identified as prisoner tax returns as a result of this error.

## **IMPROPER REFUNDABLE CREDIT PAYMENTS**

The IRS issued an estimated \$24.9 billion in potentially improper payments in FY 2017, which included Earned Income Tax Credit (EITC) improper payments of \$16.2 billion, Additional Child Tax Credit (ACTC) improper payments of \$7.4 billion, and American Opportunity Tax Credit (AOTC) improper payments of \$1.3 billion.<sup>29</sup>

TIGTA has reported that the IRS is significantly understating its estimate of improper payments associated with ACTC and AOTC credits in its reports to Congress. The IRS erroneously rates the risk associated with these two credits as a medium risk when, in fact, the risk is high. This rating is contrary to the IRS's own National Research Program<sup>30</sup> and compliance data which, when analyzed, show a high risk of improper payments.

The effectiveness of traditional compliance tools to address identified erroneous claims continues to diminish. Information provided by the IRS for inclusion in the *Department of the Treasury's Agency Financial Report Fiscal Year 2017* clearly shows that the amount of EITC the IRS is protecting has declined, whereas the amount of estimated EITC improper payments has increased since FY 2015. IRS management stated that the decline in volume of returns worked and the associated dollars protected results from reduced resources and personnel. While the PATH Act has provided the IRS with wage documents earlier in the filing season, it does not give the IRS authority to

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<sup>29</sup> TIGTA computed these amounts using the same data sources and methodology the IRS uses to compute the potential improper payment rate for the EITC.

<sup>30</sup> The National Research Program provides the IRS with compliance information that is statistically representative of the taxpayer population. The IRS uses each tax year's National Research Program results to update the EITC improper payment rate.

systemically adjust refundable credits when the income used to compute the credit is not supported by third-party income documents. The IRS must still audit each tax return to prevent or recover these unsupported refundable credits.

Currently, under the Internal Revenue Code, the IRS can use its math error authority to address erroneous EITC claims by systemically correcting mathematical or clerical errors. The IRS must conduct an audit to address potentially erroneous refundable credit claims for which it does not have math error authority. The IRS estimated that it costs \$1.50 to resolve an erroneous EITC claim using math error authority, compared to \$278 to conduct a pre-refund audit.<sup>31</sup> It should be noted that the majority of potentially erroneous EITC claims that the IRS identifies do not contain the types of errors for which it has math error authority.

Recognizing its inability to address the majority of potentially erroneous claims identified, the IRS continues to request additional authority (referred to as correctable error authority) that would allow it to correct tax returns during processing when:

- **The information provided by the taxpayer does not match the information contained in Government databases** — *e.g.*, income information reported on the tax return does not match Form *W-2, Wage and Tax Statement*, from the SSA.
- **The taxpayer has exceeded the lifetime limit for claiming a deduction or credit.** In January 2018,<sup>32</sup> we reported that our analysis of tax returns with an AOTC claim processed as of April 30, 2017, identified 612,707 tax returns for which a student had already been claimed for the AOTC for four years. We estimate these taxpayers received more than \$1 billion in erroneous AOTC payments. The IRS does not have the authority to systemically deny claims at the time tax returns are processed for students who have already received the AOTC for four years.
- **The taxpayer has failed to include documentation with his or her return that is required by statute.**

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<sup>31</sup> Cost to use math error authority as of June 25, 2014, as provided by the IRS. The IRS provided the cost of a pre-refund audit based on FY 2010 financial data.

<sup>32</sup> TIGTA, Ref. No. 2018-40-012, *Results of the 2017 Filing Season* (Jan. 2018).

## **PRIVATE DEBT COLLECTION**

The Fixing America's Surface Transportation Act<sup>33</sup> (FAST Act), enacted in 2015, mandated that the IRS use private collection agencies (PCA) to collect certain "inactive receivables."<sup>34</sup> TIGTA is reviewing the IRS's planning and implementation of the Private Debt Collection (PDC) program, as well as initial program results.<sup>35</sup> This review is assessing the establishment of policies and procedures for the PCAs, program quality metrics, and the IRS's communication strategy. TIGTA is also evaluating initial program results, such as PDC program costs and benefits, inventory selection criteria and results, compliance with Federal law, security of taxpayer information and protection of taxpayer rights, the taxpayer complaint process, IRS case-recall procedures, subsequent tax noncompliance by PCA taxpayers, and the sharing of information between the IRS and PCAs. TIGTA is also reviewing the data protection measures of the PCAs participating in the PDC program.<sup>36</sup> Furthermore, TIGTA is reviewing whether PCA performance complies with the vendors' statements of work and meets the expectations and goals established by the IRS,<sup>37</sup> and it will continue to assess the IRS's implementation of the PDC program.

Based on what TIGTA has learned during its investigation of the impersonation scam, the Office of Investigations provided the IRS with different ways to notify taxpayers about the program and that their accounts were assigned to the PCAs. The Office of Investigations has also provided integrity and safety briefings to the PCAs' employees. TIGTA will closely monitor incoming impersonation complaints involving the PCAs, and we will take appropriate action and notify the IRS, the PCAs, and the public if we identify an impersonation scheme related to the PDC program.

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<sup>33</sup> Pub. L. No. 114-94, Div. C, Title XXXII, § 32102, 129 Stat. 1312, 1733-36 (2015) (codified as I.R.C. (§) 6306.

<sup>34</sup> The term "inactive receivables" means: receivables removed from active inventory due to inability to locate the taxpayer; inventory in which one-third of the collection statute of limitations has expired; or assigned inventory in which more than 365 days have passed since contact with the taxpayer occurred.

<sup>35</sup> TIGTA, Audit No. 201630029, *Planning and Implementation of the IRS's Private Debt Collection Program*, report scheduled for June 2018.

<sup>36</sup> TIGTA, Audit No. 201720010, *Private Debt Collection Data Protection*, report scheduled for May 2018.

<sup>37</sup> TIGTA, Audit No. 201830011, *Biannual Reporting of Private Debt Collection Contractor Performance*, report scheduled for December 2018.

## **AWARDS AND REHIRING OF EMPLOYEES WITH CONDUCT AND TAX COMPLIANCE ISSUES**

In March 2014, TIGTA reported concerns about the IRS's practices for granting employee awards.<sup>38</sup> TIGTA found that, with few exceptions, the IRS did not consider Federal tax compliance or other misconduct prior to issuing awards. Between October 1, 2010, and December 31, 2012, more than 2,800 IRS employees with recent substantiated conduct issues resulting in disciplinary action received approximately \$2.8 million in monetary awards and more than 27,000 hours in time-off awards. Among these were more than 1,100 IRS employees with substantiated Federal tax compliance problems.

In response to recommendations made in the March 2014 report, the IRS Human Capital Officer completed a feasibility study in September 2014 and concluded that an agency-wide policy limiting the issuance of certain types of awards was warranted for cases in which employees have engaged in serious misconduct. In December 2014, the Department of the Treasury implemented a policy<sup>39</sup> that requires management to consider all misconduct and discipline during the 12-month period or relevant performance year, as appropriate, prior to the effective date of the award, when determining whether to grant an award (performance or otherwise). Furthermore, any monetary recognition awarded to an employee involved in misconduct that warranted a suspension or higher penalty must be justified in writing and approved by the Commissioner or an official designated by the Commissioner and reported to the Department of the Treasury each December.

In December 2014, TIGTA reported similar concerns with respect to the rehiring of former employees. Specifically, 824 (11.5 percent) of 7,168 former IRS employees rehired between January 1, 2010 and September 30, 2013, had prior substantiated conduct or performance issues.<sup>40</sup> IRS officials stated that prior conduct and performance issues did not play a significant role in deciding which candidates were best qualified for hiring. TIGTA recommended that the IRS Human Capital Officer work with General Legal Services and the Office of Personnel Management to determine

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<sup>38</sup> TIGTA, Ref. No. 2014-10-007, *The Awards Program Complied With Federal Regulations, but Some Employees With Tax and Conduct Issues Received Awards* (Mar. 2014).

<sup>39</sup> The Department of the Treasury, Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer, Transmittal Number TN-15-006, *Monetary Recognition and Employee Misconduct (Non-SES)* (Dec. 2014).

<sup>40</sup> TIGTA, Ref. No. 2015-10-006, *Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees* (Dec. 2014).

whether, and during what part of the hiring process, the IRS could fully consider prior conduct and performance issues. The IRS agreed with this recommendation.

Since the issuance of the above reports, Congress has enacted the Consolidated Appropriations Act, 2016,<sup>41</sup> which prohibits the IRS from granting employee bonuses and awards or from rehiring former employees without taking their tax compliance and prior conduct into account. However, in February 2018, TIGTA's follow-up review found that the award screening procedures that have been implemented do not fully comply with the Department of the Treasury and Consolidated Appropriations Act requirements.<sup>42</sup> IRS procedures did not result in the screening of all recommended awards to employees with misconduct, discipline, and Federal tax noncompliance issues. Specifically, we identified 26 employees with recent substantiated § 1203(b) violations,<sup>43</sup> who received awards in FYs 2016 and 2017. We also found that in FY 2016 the IRS issued more than \$1.1 million in awards and other forms of recognition to 1,147 employees who were not screened per the IRS procedures. These employees had received disciplinary or adverse actions ranging from admonishment to removal.

In FY 2017, the IRS issued almost \$642,000 in awards to 815 employees who had not been screened per IRS procedures and had received discipline ranging from admonishment to written reprimand for a tax or conduct matter. Furthermore, prior to issuing the awards, the IRS did not screen employees with outstanding tax compliance issues that had not resulted in discipline. However, it should be noted that the procedures implemented did result in measurable improvement compared to controls we reported on in December 2014. For example, the IRS denied 1,080 (80 percent) of the 1,340 awards it screened in FYs 2016 and 2017.

As part of another follow-up audit, TIGTA reported in July 2017 that the IRS had not effectively updated or implemented hiring policies to fully consider past IRS conduct and performance issues prior to making a tentative decision to hire former employees, including those who were terminated or separated during an investigation of a

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<sup>41</sup> Pub. L. No. 114-113, 129 Stat. 2242 (2015).

<sup>42</sup> TIGTA, Ref. No. 2018-10-005, *The Internal Revenue Service Has Implemented Some Screening Procedures, but Employees With Recent Tax and Conduct Issues Continue to Receive Awards* (Feb. 2018).

<sup>43</sup> Section 1203 of the IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685, states that the IRS shall terminate the employment of any IRS employee if there is a final determination that the employee committed certain acts of misconduct, including willful violations of tax law. Section 1203(b) describes 10 specific acts or omissions for which IRS employees are required to be removed; two of the 10 acts relate to IRS employee tax compliance.

substantiated conduct or performance issue.<sup>44</sup> From January 1, 2015 through March 31, 2016, the IRS hired more than 2,000 employees who had been previously employed by the IRS. More than 200 (approximately 10 percent) of the more than 2,000 rehired employees were previously terminated from the IRS or separated while under investigation for a substantiated conduct or performance issue.

Some rehired employees had past employment issues. For example, 60 of the 824 employees we identified in our prior report as having been rehired with prior substantiated employment issues between January 1, 2010 and September 30, 2013 were rehired again between January 1, 2015 and March 31, 2016. Of these 60 employees, five had additional documented conduct or performance issues substantiated within nine days to 19 months after being rehired. Three of the employees had the same issue in their prior employment. TIGTA is planning another follow-up review in this area later this calendar year.

## **EXCESS IRS OFFICE SPACE**

TIGTA estimates that the IRS could reduce costs through more effective workspace sharing. This would reduce the need for more than 10,000 workspaces and reduce rental costs by approximately \$80 million over five years. The IRS will spend more than \$600 million on real estate costs in FY 2018. The IRS reported a workstation (cubicle) utilization rate of only 66 percent as of December 2017. Since March 2012, the IRS has reduced its total office space by approximately two million square feet, which represents nearly an 8 percent reduction. However, the rate of employee attrition has outpaced space reduction efforts. The IRS has not capitalized on underutilized workspace reduction cost savings that could be achieved from better utilization of employee “hoteling” (managers and employees sharing unassigned workspaces). Potential savings would include reduced rental, workspace buildout, furnishing, and equipment costs. The IRS could not provide TIGTA with any documentary evidence demonstrating measurable progress in releasing underutilized workspaces as a result of highly mobile employees and employees who participate in frequent or recurring telework. TIGTA made five recommendations for improvement and the IRS generally agreed with TIGTA’s findings and recommendations.

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<sup>44</sup> TIGTA, Ref. No. 2017-10-035, *The Internal Revenue Service Continues to Rehire Former Employees With Conduct and Performance Issues* (July 2017).

## **TELEPHONE IMPERSONATION SCAM**

Since the fall of 2013, a significant amount of our Office of Investigations' workload has consisted of investigating a telephone impersonation scam in which more than 2.2 million intended victims have received unsolicited telephone calls from individuals falsely claiming to be IRS or Department of the Treasury employees. The callers demand money under the pretense that the victim owes unpaid taxes. To date, over 13,000 victims have purportedly paid more than \$65 million to these criminals.

The telephone impersonation scam continues to be one of TIGTA's top priorities; it has also landed at the top of the IRS's list of "Dirty Dozen" tax scams. The number of complaints we have received about this scam have cemented its status as the largest, most pervasive impersonation scam in the history of our agency. It has claimed victims in every State.

Here is how the scam works: the intended victim receives an unsolicited telephone call from a live person or from an automated call dialer. The caller, using a fake name and sometimes a fictitious IRS employee badge number, claims to be an IRS or Treasury employee. The scammers use Voice over Internet Protocol technology to hide their tracks and use caller identification (ID) spoofing technology to make it appear as though the calls are originating from Washington, D.C., or elsewhere in the United States. In some cases, they have even spoofed their caller ID number to make it appear as if they are calling from the IRS 1-800 number or the TIGTA Complaint Hotline.

The callers may even know the last four digits of the victim's SSN or other personal information about the victim. The caller claims that the intended victim owes the IRS taxes and that, if those taxes are not paid immediately, the victim will be arrested or charged in a lawsuit. Other threats for nonpayment include the loss of a driver's license, deportation, or loss of a business license. They often leave "urgent" messages to return telephone calls and often call the victim multiple times.

According to the victims we have interviewed, these scammers then demand that the victims immediately pay the money using Apple iTunes gift cards, Target gift cards, Best Buy gift cards, prepaid debit cards, wire transfers, Western Union payments or MoneyGram payments in order to avoid being immediately arrested. They are typically warned that if they hang up, the local police will come to their homes to arrest them immediately. Sometimes the scammers also send bogus IRS e-mails to support their claims that they work for the IRS. By the time the victims realize that they have been scammed, the funds are long gone.

TIGTA has made many arrests in connection with this scam and has numerous investigations underway. In October of 2016, after an extensive three-year investigation, TIGTA, the Department of Justice, and the Department of Homeland Security announced the indictment of 56 individuals and five call centers located in India. It is anticipated that on June 14, 2018, 21 of these defendants will be sentenced for their roles in the scam. In January 2018 and February 2018, in two separate IRS impersonation scam investigations, two additional individuals were sentenced to 46 months' imprisonment and 51 months' imprisonment, respectively. To date, as a result of TIGTA's commitment to protecting taxpayers, a total of 111 individuals have been charged in Federal court for their involvement in IRS impersonation scams. Although the investigations and prosecutions have reduced the number of scam calls being placed by over 90 percent, we are still receiving reports that between 4,000 and 10,000 individuals are receiving calls each week.

In addition to the criminal prosecutions, to thwart scammers using robo-dialers, we have created and instituted an "Advise and Disrupt" strategy. The strategy involves cataloguing the telephone numbers that have been reported by intended victims. We then use our own automated call dialers to make calls to those telephone numbers to advise the scammers that their activity is criminal and to cease and desist their activity. Utilizing this technique, we have placed more than 168,000 automated calls back to the scammers. We are also working with the telephone companies to have the scammers' telephone numbers shut down as soon as possible. As of March 31, 2018, we have used the Advise and Disrupt strategy to identify more than 1,327 telephone numbers associated with the scam. We have successfully shut down 97 percent of them, in some cases within a week. In an effort to keep IRS impersonation scam telephone calls from ever reaching their intended victims, TIGTA, the Federal Trade Commission, and the Federal Communications Commission have begun a collaborative effort with the telecommunications providers to formulate additional methods to combat and disrupt telephone-based scams.

TIGTA also shares scam-related telephone numbers with consumer scam identification websites on the Internet. This provides intended victims an additional tool to help them determine if the call they have received is part of a scam. All they have to do is type the telephone number into any search engine, and the response will indicate whether the telephone number has been identified as part of the impersonation scam. These efforts are producing results: our data show that it now takes more than 200 calls to defraud one victim, whereas in the beginning of the scam it took only a double digit number of attempts.

Further, TIGTA is engaged in public outreach efforts to educate taxpayers about the scam. These efforts include publishing press releases, granting television interviews, issuing public service announcements, conducting town hall meetings, and providing testimony to Congress. The criminals view this scam as they do many others; it is a crime of opportunity. Unfortunately, while we plan on arresting and prosecuting more individuals, the scam will not stop until people stop paying the scammers money. Our best chance at defeating this crime is to continue to educate people so they do not become victims in the first place. Every innocent taxpayer we protect from this crime is a victory.

We at TIGTA take seriously our mandate to provide independent oversight of the IRS in its administration of our Nation's tax system. Accordingly, we plan to provide continuing audit, investigative, and inspections and evaluations coverage of the IRS's efforts to operate efficiently and effectively.

Chairman Jordan, Chairman Meadows, Ranking Member Krishnamoorthi, Ranking Member Connolly, and Members of the Subcommittees, thank you for the opportunity to share my views.



## **J. Russell George**

### **Treasury Inspector General for Tax Administration**

Following his nomination by President George W. Bush, the United States Senate confirmed J. Russell George in November 2004 as the Treasury Inspector General for Tax Administration. Prior to assuming this role, Mr. George served as the Inspector General of the Corporation for National and Community Service, having been nominated to that position by President Bush and confirmed by the Senate in 2002.

A native of New York City, where he attended public schools, including Brooklyn Technical High School, Mr. George received his Bachelor of Arts degree from Howard University in Washington, D.C., and his Doctorate of Jurisprudence from Harvard University's School of Law in Cambridge, MA. After receiving his law degree, he returned to New York and served as a prosecutor in the Queens County District Attorney's Office.

Following his work as a prosecutor, Mr. George joined the Counsel's Office in the White House Office of Management and Budget, where he was Assistant General Counsel. In that capacity, he provided legal guidance on issues concerning presidential and Executive Branch authority. He was next invited to join the White House Staff as the Associate Director for Policy in the Office of National Service. It was there that he implemented the legislation establishing the Commission for National and Community Service, the precursor to the Corporation for National and Community Service. He then returned to New York and practiced law at Kramer, Levin, Naftalis, Nessen, Kamin & Frankel.

In 1995, Mr. George returned to Washington and joined the staff of the Committee on Government Reform and Oversight and served as the Staff Director and Chief Counsel of the Government Management, Information and Technology Subcommittee (later renamed the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations), chaired by Representative Stephen Horn. There he directed a staff that conducted over 200 hearings on legislative and oversight issues pertaining to Federal Government management practices, including procurement policies, the disposition of Government-controlled information, the performance of chief financial officers and inspectors general, and the Government's use of technology. He continued in that position until his appointment by President Bush in 2002.

Mr. George also served as a member of the Integrity Committee of the Council of Inspectors General for Integrity and Efficiency (CIGIE). CIGIE is an independent entity within the executive branch, statutorily established by the Inspector General Act of 1978, as amended, to address integrity, economy, and effectiveness issues that transcend individual Government agencies and to increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General. The CIGIE Integrity Committee serves as an independent review and investigative mechanism for allegations of wrongdoing brought against Inspectors General.