Management Advisory Report: New Job Description Gives Employees Broad Authority Without Additional Compensating Controls

December 2001

Reference Number: 2002-40-028

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

December 11, 2001

MEMORANDUM FOR COMMISSIONER, WAGE AND INVESTMENT DIVISION

Michael R. Phillips

FROM: (for) Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Management Advisory Report - New Job Description Gives Employees Broad Authority Without Additional Compensating Controls (Audit # 200140048)

This report presents the results of our review to determine if management controls over newly created field assistance positions were adequate to deter fraud, such as theft and bribery.

In summary, we found that the Internal Revenue Service (IRS) is at an increased risk of employees committing fraud, including embezzlement or accepting bribes. A new field assistance position, the Tax Resolution Representative (TRR), ultimately gives employees broader authority to access and adjust taxpayer accounts without additional compensating controls.

<u>Management's Response</u>: The Commissioner, Wage and Investment Division, agreed with our recommendation. IRS management plans to use the issues identified during test examinations of innocent spouse returns and those identified by a current task force to develop safeguards to minimize risks. These safeguards will include the guidelines in the IRS' *Management Controls Accountability Program: MCAP Handbook for Managers, Version 2.01* (February 2001). The Internal Revenue Manual will also be revised to include proper safeguards. Management's complete response to the draft report is included as Appendix V.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendation. Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips, Acting Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 927-7085.

Table of Contents

Background

As part of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)[1], the IRS was required to review and restate its mission to place a greater emphasis on serving the public and meeting taxpayer needs. The Congress' joint committee report stated that a key reason for taxpayer frustration with the IRS was the lack of appropriate attention to taxpayer needs. At a minimum, taxpayers should be able to receive the same level of service expected from the private sector.

For example, taxpayer inquiries should be answered promptly and accurately; taxpayers should be able to obtain timely resolution of problems and information regarding activity on their accounts; and, taxpayers should be treated fairly and courteously at all times. The committee believed that taxpayer service was of such importance that it mandated a key part of the IRS mission must be service to taxpayers.

In response to this provision of the RRA 98, the IRS has established a new field assistance position: the Tax Resolution Representative (TRR). TRRs are responsible for face-to-face assistance in resolving examination, collection, and account issues. This can include assisting taxpayers with return preparation; conducting examinations of individual tax returns and analyzing the taxpayer's financial condition and related operations; providing technical tax guidance and tax-related accounting assistance to the taxpayer; and being involved in compliance outreach, education, and volunteer activities.

This review was performed during July and August 2001. We interviewed three Field Assistance group managers in Field Assistance Area 5, as well as the head of the IRS design team for the new position. The review was conducted in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*. Detailed information on our objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

---

[1] The Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685.

The New Tax Resolution Representative Position Gives Employees Broader Authority to Access and Adjust Taxpayer Accounts Without Any Additional Compensating Controls

The new TRR position ultimately gives employees broader authority to access and adjust taxpayer accounts without any additional compensating controls. Because of the range of duties in this position, the IRS has removed the management control resulting from a separation of duties and has created an increased risk of employees committing fraud, including the embezzlement of funds and the acceptance of bribes.

The IRS wants its employees to become more proactive consultants, advisors, and advocates to the customers they support. Employees must be able to interact with customers and serve as the single point of contact to resolve both general and technical customer issues. The IRS believes that the TRR position will help establish a technically competent workforce, professionalize tax-related occupations, and create a career path for many employees that did not previously exist.

The federal government has long recognized that key duties and responsibilities should be separated

The federal government has long recognized that key duties and responsibilities should be separated and that managers should exercise appropriate oversight.

After World War II, the then Bureau of Internal Revenue employed deputy collectors to collect revenue due the government. These employees had broad powers and authority, and there were many charges and convictions of improper conduct and corruption by these employees. This led to a massive reorganization of the Bureau in 1952, and the creation of the present-day Internal Revenue Service.

In his letter submitting the Reorganization Plan No. 1 of 1952 to the Congress, President Harry S Truman stated:

> "A comprehensive reorganization of the Bureau is necessary both to increase the efficiency of its operations and to provide better machinery for assuring honest and impartial administration of the internal revenue laws. The reorganization plan transmitted with this message is essential to accomplish the basic changes in the structure of the Bureau of Internal Revenue which are necessary for the kind of comprehensive reorganization that is now required.

> "The most vigorous efforts are being and will continue to be made to expose and punish every Government employee who misuses his official position. But we must do even more than this. We must correct every defect in organization that contributes to inefficient management and thus affords the opportunity for improper conduct."

One of the main "defects" corrected was implementing a separation of duties among IRS employees. No single employee could, for instance, examine and establish a tax liability, take collection actions, and make adjustments to taxpayer accounts.

<u>Government control standards include separation of duties</u>

Office of Management and Budget Circular No. A-123, Management Accountability and Control, lists this control standard:

> "Key duties and responsibilities in authorizing, processing, recording, and reviewing official agency transactions should be separated among individuals. Managers should exercise appropriate oversight to ensure individuals do not exceed or abuse their assigned authorities."

The Internal Revenue Manual (IRM 114.1.3.6.2(5)), in the Compliance and Customer Service Managers' Handbook, states:

> "Internal control techniques are the mechanisms by which control objectives are achieved. Techniques include, but are not limited to, such things as specific policies, procedures, plans of organization (including separation of duties), and physical arrangements…."

While we recognize that the emphasis on taxpayer service from the Congress was the driving force for the creation of the new position, the IRS must recognize and address the risks associated with once again granting broad power and authority to individual employees.

TRRs will have the authority to perform tasks including:

- Assisting taxpayers with return preparation.
- Conducting audits to determine tax liability and recomputing tax, penalty, and interest.
- Collecting delinquent taxes.
- Accepting tax returns.
- Arranging installment agreements.
- Making abatements of tax.
- Preparing (but not approving) manual refunds.
- Making adjustments to taxpayers' accounts.
- Initiating credit transfers.
- Preparing and executing waivers to extend statute dates.
- Performing research and analysis of taxpayers' accounts.

In addition, the TRR position description states that the employee's findings and determinations are final in most cases. The level of management authorization, review, and approval needs to be high enough to reduce the risks associated with these wide duties.

The IRS' *Management Controls Accountability Program: MCAP Handbook for Managers, Version 2.01* (February 2001) defines risk as "the probability of a negative, unanticipated occurrence." The Handbook goes on to state that "Some areas or occurrences with higher potential for risk include:

- "Changes in organizational structure, processes, procedures, personnel, and systems;
- "Cash handling activities;…and,
- "Staffing."

The implementation of the TRR position encompasses all three of the factors listed above. Staffing is a large factor in creating this risk. As of September 2000, the IRS had 1,339 full-time walk-in employees. The goal is to double the number of full-time staff in the Taxpayer Assistance Centers, bringing the desired staffing level to 2,636 by September 2002. The goal assumes most of the staffing will be TRRs.

It is the responsibility of management to implement controls to mitigate risks. Controls are not separate systems or processes; they are tools routinely used by managers to manage their operations.

Individual group managers determine the levels of access individual employees have to the IRS computer systems. We obtained the computer access profiles for employees in some field assistance walk-in sites and determined that many of the employees did have the capability to perform the tasks listed above. Variations in the duties depended on the managers' decisions, as well as the individuals' level of training to date. One manager told us that many of his current employees would have an increased range of duties as training was delivered over the next 2 years.

In its Strategic Plan for Fiscal Years 2000-2005, the IRS estimated that it would receive tax returns from 135 million taxpayers, with total tax liabilities of $1.8 trillion. Collections of tax dollars in 2000 exceeded $2 trillion before refunds. The IRS projected that it would receive over 232.5 million tax returns in 2001, and 258.1 million by 2007. With the right combination of circumstances, any one of these tax accounts could be accessed and manipulated by a TRR in the course of his/her duties.

Fraud is defined as irregularities or illegal acts characterized by intentional deception

Fraud is defined as irregularities or illegal acts characterized by intentional deception. These include:

- Bribery.
- Embezzlement.
- Diversion of funds.
- Intentional concealment or misrepresentation of events or data.

A person can commit a fraud when possessing the opportunity to do so. Opportunity is usually the result of the employee's responsibilities and access to assets, coupled with the trust of the employer. The motivation of the employee can be attributed to numerous factors, including not only the employee's personal circumstances (finances, domestic situation, mental stability, etc.) but also situations on the job, such as change, stress, or mistreatment, whether real or perceived.

An employee with all of the duties and capabilities described in the TRR position description could commit fraud in numerous ways. For instance, it would be possible to file a fraudulent return on a taxpayer account, change the address on the account to either the employee's or that of an accomplice, and generate a refund that would be kept by the employee.

In another possible scenario, an employee could examine a tax return and determine an additional assessment. The employee could collect the amount of the assessment from the taxpayer, but adjust the assessment to a lower amount in the computer records and pocket the difference.

These examples are theoretical, but the IRS has experienced actual fraud by its employees in the past. In a recent example, an IRS employee, a GS-9 Taxpayer Service Specialist in an IRS walk-in office, accepted bribes from a certified public accountant (CPA). The bribes were received for supplying the CPA with falsified IRS documents that were in turn used to obtain bank loans. The IRS employee received $200 or more for each document. The fraudulent bank loans eventually amounted to $15,700,000.

The employee would access a taxpayer account, input numbers from a fictitious tax return supplied by the CPA into the screen print of the taxpayer's legitimate return, print the altered computer screens, and stamp the prints with an official IRS stamp. The prints were then given to the CPA who used them to misrepresent the taxpayer's tax and income history on loan applications.

The IRS employee was able to provide the falsified documents as a result of his computer capabilities and access to IRS official stamps and other assets. The fraud was not initially detected by the employee's manager since the actions on the computer were not saved and the taxpayer accounts were not permanently changed. The fraud was eventually discovered and the case was accepted for criminal prosecution.

The employee's access to taxpayer accounts and the stamp were well within the duties and controls of his position as a

Taxpayer Service Specialist. The capabilities of this employee were less than a new TRR's capabilities.

Improper acts by employees require opportunity and motivation. The employee's capabilities and access to taxpayer accounts provided the opportunity. Past disciplinary action taken against this employee by IRS management could have provided the motivation necessary for the employee to commit the fraud. Additional examples of employee fraud are in Appendix IV.

Recommendation

Since the IRS has increased the risks associated with the lack of separation of duties in the TRR position, the IRS must take measures to mitigate those risks. These actions should follow the guidelines in the "MCAP Handbook for Managers"[2] and provide reasonable assurance that:

- Transactions are properly recorded and accounted for.
- Wrongful acts are extremely difficult, abuses are discouraged, and safeguards against carelessness are in place.
- Abusive or careless acts are detected shortly after they occur and trigger necessary corrective actions.

Management's Response: A task force is currently reviewing internal controls and other potential deficiencies relating to payments. The results of the task force and test examinations of returns will be used to develop procedures and safeguards to minimize risks and will include the guidelines in the MCAP Handbook for Managers. The IRM will also be revised to include proper safeguards.

[2] Management Controls Accountability Program: MCAP Handbook for Managers, Version 2.01, Feb. 2001.

Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to determine if management controls over newly created customer service positions were adequate to deter fraud, such as theft and bribery. To accomplish our objective, we performed the following:

I. Determined if the Internal Revenue Service considered and implemented compensating controls in the design of the Tax Resolution Representative (TRR) position.

   A. Interviewed the head of the IRS design team for the field assistance position.

   B. Researched the Internal Revenue Manual, management handbooks, memoranda, etc., to determine what compensating controls were in place.

   C. Analyzed job descriptions to determine if potential conflicts existed.

   D. Determined whether Integrated Data Retrieval System command code profiles contained conflicting sensitive command codes for the TRR employees.

II. Determined if controls were in place and being used by local managers. We interviewed three Field Assistance group managers to analyze the use and effectiveness of the controls.

III. Compared capabilities of TRRs to actual theft, fraud, and bribery cases in Treasury Inspector General for Tax Administration records to assess the potential for similar occurrences.

Appendix II

Major Contributors to this Report

Michael R. Phillips, Acting Assistant Inspector General for Audit (Wage and Investment Income Programs)
Susan Boehmer, Director
Stanley Rinehart, Director
Steve Root, Audit Manager
David Brown, Senior Auditor
Jacqueline Nguyen, Auditor
Carrie Robben, Auditor
Gail Yorgason, Auditor

Appendix III

Report Distribution List

Commissioner N:C
Deputy Commissioner N:DC
Commissioner, Wage and Investment Operating Division W
Director, Field Assistance W:CAR:FA
Director, Strategy and Finance W:S
Chief Counsel CC
National Taxpayer Advocate TA
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Office of Management Controls N:CFO:F:M

Appendix IV

Case Studies of Internal Revenue Service Employee Fraud

The following case studies were selected from the Treasury Inspector General for Tax Administration's (TIGTA) Semiannual Reports to the Congress and cover a period from April 1999 to March 2001. Each of these examples illustrates how Internal Revenue Service (IRS) employees have been tempted and able to use the capabilities of their job to commit a fraud. The employees in all of these cases had a smaller range of duties than that of the Taxpayer Resolution Representatives (TRR). The TIGTA's concern is that with a TRR's expanded capabilities, instances such as these may increase.

Theft and Embezzlement

These cases are instances where IRS employees have diverted payments from taxpayers or IRS refund checks to their own use.

Two IRS Employees Pled Guilty to Theft of IRS Tax Remittances

Two IRS service center employees entered guilty pleas after being indicted on federal charges of theft of public money and theft of mail. A proactive initiative to detect thefts of taxpayer remittances identified the two employees that inappropriately handled controlled tax remittance items. On April 1, 1999, TIGTA special agents confronted the employees immediately after they failed to properly process the tax payments during separate incidents. Both employees confessed to the thefts and turned over the stolen money. The IRS immediately terminated the employees. *(Source: TIGTA Semiannual Report to the Congress - September 30, 1999, page 32.)*

IRS Employee Found Guilty of Theft of $31,150 in Tax Remittance Checks and Destruction of a Tax Return

On April 20, 1999, a federal grand jury indicted an IRS employee on three counts of theft of public money and destruction of a tax return. The investigation began when a taxpayer reported that her $8,000 tax remittance check, made payable to the IRS, was altered to be payable to an individual. Review of IRS records identified the individual as an IRS employee. Bank records confirmed that the $8,000 check was deposited into the employee's bank account. Bank employees later notified TIGTA agents that the employee had deposited a second check for $23,150 into her account. A review of that check revealed that it was also altered to the name of the employee. The employee was arrested and admitted that she threw away the tax return that was attached to the $23,150 check. On July 28, 1999, the employee was found guilty of all three counts. The employee was terminated from the IRS. *(Source: TIGTA Semiannual Report to the Congress - September 30, 1999, page 33.)*

IRS Employee Was Charged With Theft

In October 1999, an IRS service center employee was charged with one count of theft of a tax remittance, which had been placed in the employee's work bin by TIGTA special agents. This was part of a TIGTA proactive initiative to detect thefts of taxpayer remittances.

The employee failed to process the tax remittance properly. The money order was later negotiated by an acquaintance of the employee. The acquaintance indicated the employee provided the money order as repayment on a personal debt. The IRS subsequently terminated the employee. An agreement was reached in court requiring the employee to pay restitution in exchange for deferment of the criminal charge. (*Source: TIGTA Semiannual Report to the Congress – March 31, 2000, page 28.)*

IRS Employee Arrested on Embezzlement Charges

In August 2000, TIGTA special agents arrested an IRS employee on federal embezzlement charges. In January 2000, the employee received $3,000 in U.S. Postal money orders as payment on a taxpayer's tax liability. The employee did not process the tax remittances. In late July 2000, the employee provided the money orders to the employee's landlord as partial payment on overdue rent. The money orders had been altered to reflect the landlord as payee and the employee as payer. The original payee and payer information was still visible on the money orders. In September 2000, the employee pled guilty to converting the property of another. *(Source: TIGTA Semiannual Report to the Congress – September 30, 2000, page 33.)*

IRS Employee Pled Guilty to Fraudulently Negotiating Stolen Refund

In July 2000, an employee pled guilty to stealing and fraudulently negotiating approximately $7,100 in stolen IRS refund checks to support a drug habit. The employee utilized the IRS' computer system to determine when the refund checks were scheduled to be issued. A non-employee co-conspirator assisted the employee by stealing the checks from mailboxes. The employee resigned from the IRS while under investigation. During an interview by TIGTA special agents, the employee admitted to cashing the stolen checks. The employee later cooperated with TIGTA and provided information regarding drug use by other IRS employees. This information led to the arrest and prosecution of an IRS employee on local drug charges. *(Source: TIGTA Semiannual Report to the Congress – September 30, 2000, page 34.)*

Two IRS Employees Embezzle Remittance Check

In June 2000, two IRS employees were charged with embezzling a taxpayer's remittance check. The funds were diverted into one of the employee's personal bank accounts. The two employees split the proceeds equally. TIGTA identified the employee as the author of the check endorsement. In September 2000, one of the employees pled guilty to the charge of embezzlement and was sentenced to three months probation and ordered to pay restitution of $466. In November 2000, the second employee was found guilty and is awaiting sentencing. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2001, page 32.)*

Former IRS Employee Alters Money Orders Payable to IRS

In October 2000, a former IRS employee pled guilty to four counts of altering money orders. The IRS employee stole taxpayers' remittances, then altered and negotiated the money orders. TIGTA identified the IRS employee's fingerprints on two of the money orders. In January 2001, the employee was sentenced to 4 months confinement. The employee will then be placed on 5 years probation. The employee was ordered to pay restitution of $2,300 to the IRS, pay a $400 special assessment, and perform 120 hours of community service. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2001, page 32.)*

Four IRS Employees Indicted for Conspiracy and Theft

In January 2001, an IRS employee pled guilty in a plea agreement to one count of conspiracy to defraud the U.S. government and was ordered to make restitution for the thefts of taxpayer remittances. In April 2000, local police reported to TIGTA that the employee had been arrested on an unrelated incident. During the arrest, an altered check and money order originally made payable to the IRS were found in the employee's possession.

The TIGTA investigation found 12 additional remittances totaling $16,155. The employee stole checks and altered the payee line to the name of three co-conspirators, who then negotiated the check or money order. The IRS employee was terminated in April 2000 and arrested in November 2000. The three co-conspirators were also IRS employees.

In June 2000, the U.S. Attorney filed a complaint against the first co-conspirator who was arrested, terminated, and indicted and pled not guilty. In March 2001, in a plea agreement, the first co-conspirator pled guilty to three counts of theft and was ordered to pay restitution.

In November 2000, the second and third co-conspirators pled not guilty. In March 2001, the second co-conspirator entered a guilty plea of misdemeanor theft, was ordered to pay restitution, and was terminated in July 2000. The third co-conspirator resigned in April 2000 and is awaiting trial.

In November 2000, all four conspirators were indicted in a superceding indictment for conspiracy, theft, and aiding and abetting. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2001, page 36.)*

Fraudulent Returns

These two cases are instances in which employees filed fraudulent tax returns on taxpayer accounts or altered taxpayers returns to generate refunds to themselves.

Two IRS Employees Charged in Refund Scheme

In November 1999, a federal grand jury returned a 50-count indictment charging two IRS employees with conspiracy, filing false claims, and assisting others in filing false federal income tax returns. Computer analysis determined that one of the employees made unauthorized accesses to obtain confidential tax information of deceased individuals and used this information to obtain tax refunds. This employee and a co-worker then conspired to cash a tax refund check obtained in the name of one of the deceased taxpayers. The employees then fraudulently filed their own federal income tax returns claiming fictitious child and dependent care credits for multiple years. Additionally, the employee who made the unauthorized accesses assisted and counseled several other individuals in filing what the employee knew to be fraudulent income tax returns, claiming fictitious credits. Both employees resigned upon notification of their proposed termination from the IRS. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2000, page 23.)*

Individual Sentenced for Participation in Tax Refund Scheme With an IRS Employee

An individual conspired with an IRS employee who had designed and implemented an extensive fraudulent electronic tax return refund scheme. The employee obtained the names, Social Security Numbers, and addresses of individuals who had no prior tax filing history. For a $500 fee, the employee used this information to prepare fraudulent tax returns that resulted in the maximum Earned Income Tax Credit refund of between $2,000 and $3,000. The individual conspired with the employee to file a fraudulent return. As a result of the investigation, the employee was convicted and resigned from the IRS. The individual pled guilty to charges of conspiracy, theft of public monies, bank fraud, conspiracy-false claims, false claims, and firearms violations.

In January 2000, the individual was sentenced to 1 year and 9 months incarceration, 3 years supervised probation, and a $550 special assessment fine. The investigation was conducted with a task force formed by the U.S. Attorney's Office that included TIGTA, the U.S. Secret Service, the Postal Inspection Service, the Social Security Administration Office of Inspector General, IRS Criminal Investigation, and the New York City Department of Investigations. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2000, page 28.)*

Misuse of Authority

These cases illustrate various ways that employees misused their capabilities or authority as IRS employees to threaten or harass taxpayers, solicit or accept bribes, and otherwise gain benefits for themselves.

IRS Employee Assisted Car Broker in $20,000 Bribe Pay-Off to Cooperating Revenue Agent

On June 9, 1999, an IRS employee and a car broker were indicted by a federal grand jury for bribery and conspiracy. The investigation began when TIGTA agents received information alleging that an IRS employee, behind in rent payments, had threatened her landlady with an IRS audit if further attempts to collect the rent and/or eviction procedures were undertaken. It was alleged that the employee had accessed the IRS computer system for tax account information of the landlady and property owner. The investigation confirmed the employee's threats of IRS retaliation against the landlady and improper access to the tax accounts.

Subsequently, the employee initiated contacts with a revenue agent and suggested that if the revenue agent could possibly help the car broker, the revenue agent could receive a car. The revenue agent contacted TIGTA and cooperated in the investigation.

The IRS employee introduced the revenue agent to the car broker, who offered $20,000 to secure his IRS audits and prepare fraudulent reports and another $10,000 to initiate an audit on a former business partner. The IRS employee insisted to the revenue agent that she deserved half of every bribe payment as a finder's fee. The car broker paid $20,000 to the revenue agent in return for fraudulent audit reports. TIGTA special agents arrested the IRS employee and the car broker on June 10, 1999. *(Source: TIGTA Semiannual Report to the Congress - September 30, 1999, page 30.)*

IRS Employee Pled Guilty to Making False Statements

In May 2000, an IRS employee pled guilty to two counts of making false statements to the government. TIGTA's investigation revealed that the employee had overlooked significant audit issues on a number of cases. The employee arranged for co-conspirators to represent individuals concerning IRS audits and returns. The co-conspirators received money from the individuals in the employee's case inventory. Falsified documents were submitted to the IRS to substantiate false deductions developed by the employee and co-conspirators. A subsequent audit of the returns prepared by the employee and co-conspirators resulted in additional assessments of approximately $1.07 million. In July 2000, the IRS employee received a 1-year suspended sentence, 150 hours of community service, and a $100 special assessment. *(Source: TIGTA Semiannual Report to the Congress – September 30, 2000, page 33.)*

IRS Employee Utilizes Tax Account Information to Harass Taxpayers

In November 1999, an IRS employee was arrested and charged with using his official position to harass two taxpayers in relation to a personal dispute. The two taxpayers received fraudulent notices from the IRS, stating that they were being audited. Although fictitious, the correspondence was on IRS letterhead and was sent in official IRS envelopes. The fraudulent correspondence was metered in the mailroom of the IRS office where the employee worked. One of the notices contained specific taxpayer data from a prior year return.

In addition to the fraudulent notices, one taxpayer and the other taxpayer's spouse received several telephone calls from individuals claiming to be the IRS employees named in the fraudulent correspondence.

The investigation disclosed that the taxpayers were not under audit. The employee's group secretary unwittingly, at the request of the employee, made accesses to the tax accounts of both taxpayers. The timing of the accesses corresponded to the mailing of the fraudulent notices. In addition, the investigation determined that the telephone calls were made from the employee's residence and corresponded with the approximate dates and times of several of the calls received by the taxpayers. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2000, page 24.)*

IRS Employee Pled Guilty to Unauthorized Disclosure and Fraud

Based on an allegation, TIGTA initiated an investigation concerning misuse of an IRS employee's position. The employee solicited a bank loan under preferential conditions and a vehicle repair from a taxpayer in exchange for delaying IRS collection efforts. In July 2000, the employee was indicted by a federal grand jury on nine counts of bribery, extortion, unlawful acts of revenue officers or agents, fraud and related activity in connection with computers, and unauthorized disclosure of information. In August 2000, the individual pled guilty to one count of unauthorized inspection of return or return information, one count of fraud and related activity in connection with computers, and received a one-year suspended sentence. In August 2000, the employee resigned from the IRS. *(Source: TIGTA Semiannual Report to the Congress – September 30, 2000, page 30.)*

IRS Employee and Dentist Indicted for Conspiracy and Bribery

A TIGTA investigation revealed that an IRS employee was receiving free dental treatment from a dentist in exchange for abating approximately $20,000 in tax penalties and interest and lowering the dentist's monthly tax installment payment from $5,000 to $3,000 per month. A search warrant resulted in locating evidence that corroborated the bribes. The investigation substantiated that the employee received approximately $10,000 in free dental treatments. In April 2000, the employee and dentist were indicted for conspiracy and offering and accepting a bribe. The employee was immediately terminated. *(Source: TIGTA Semiannual Report to the Congress – September 30, 2000, page 31.)*

Former IRS Employee Pled Guilty to Accepting Illegal Gratuity

In November 2000, a former IRS employee was indicted on one count of accepting an illegal gratuity and two counts of extortion. The indictment charged that the employee's official position was used to coerce a taxpayer into selling a vehicle at below market value, purchasing another vehicle from the employee at above market value, and demanding a $500 service fee. In February 2001, the employee pled guilty to one count of accepting an illegal gratuity and was ordered to pay $4,500 in restitution. *(Source: TIGTA Semiannual Report to the Congress – March 31, 2001, page 34.)*

Appendix V

Management's Response to the Draft Report

COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

NOV 21 2001

RECEIVED
NOV 21 2001

MEMORANDUM FOR TREASURY INSPECTOR GENERAL
FOR TAX ADMINSTRATION

FROM: John M. Dalrymple
Commissioner, Wage and Investment Division

SUBJECT: Draft Report # 200140048—New Job Description Gives Employees Broad Authority Without Additional Compensating Controls

Prior to the broad reforms brought about by the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98)[1] IRS identified a need to invest in direct contact employees with a wide range of responsibilities and skills.

Subsequently, RRA 98 required the IRS to place a greater emphasis on serving the public and meeting taxpayer needs. In response to this provision, we established a new Field Assistance position: the Tax Resolution Representative (TRR). Employees in this position are responsible for face-to-face assistance to taxpayers to resolve examination, collection, and account issues. Your recent review of our progress and evaluation of the risk of fraud by employees assigned to this newly created position found that the new position gives employees broader authority to access and adjust taxpayer accounts without additional compensating controls.

The IRS Customer Service Task Force comprised of U.S. Treasury, IRS and the White House concluded our service in the Taxpayer Assistance Centers (TAC) was deficient. It became clear that IRS was not meeting customer needs. To expedite resolution of taxpayer issues at first point of contact, the newly created TRR position required authorities not previously blended. Private sector best practice models considered by the Design Teams further clarified the need for contact employees to have a broad range of authorities. Field Assistance's successful Problem Solving Day events have substantiated the validity of the TRR position as a valuable service component.

We agree we must implement new controls. We will use the issues identified during

[1] IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, 112 Stat 685.

calendar year 2001 test examinations of innocent spouse returns to develop the safeguards we explain in detail below. In addition, we will revise the Internal Revenue Manual to include proper safeguards.

RECOMMENDATION 1

"Since the IRS has increased the risks associated with the lack of separation of duties in the TRR position, the IRS must take measures to mitigate those risks. These actions should follow the guidelines in the 'MCAP Handbook for Managers'[2] and provide reasonable assurance that:

- Transactions are properly recorded and accounted for.
- Wrongful acts are extremely difficult, abuses are discouraged, and safeguards against carelessness are in place.
- Abusive or careless acts are detected shortly after they occur and trigger necessary corrective actions."

ASSESSMENT OF CAUSE

"The Field Assistance Design Team worked with Personnel in developing the Position Description and Critical Job Elements for the proposed TRR position. Their charge was to create a position with the broadened scope of responsibilities that would meet the customer service requirements associated with the RRA 98.

The Design Team placed emphasis on employees being able to interact with customers and serve as the single point of contact to resolve both general and technical customer issues. In addition, we wanted to create a position with a higher grade structure and career path for employees that did not exist prior to the reorganization. This effort did not include analyzing the risks associated with the lack of separation of duties for the TRR position."

CORRECTIVE ACTIONS

We have not fully implemented the TRR position as it relates to taxpayer account adjustments and compliance work (examining returns). A task force is currently reviewing internal controls and other potential deficiencies relating to payments. We will develop procedures to address issues on processing payments including cash and appropriate receipts and will include the guidelines in the "MCAP Handbook for Managers." Other issues this group will address include, but are not limited to, information system controls, management responsibilities, and employee safety.

2 Management Controls Accountability Program: MCAP Handbook for Managers, Version 2.01, Feb. 2001.

3

Field Assistance piloted the examination of a limited number of innocent spouse cases during fiscal year 2001. They are currently evaluating the results which will provide the framework for improving processes and developing safeguards to minimize risks associated with future planned return examinations.

Ultimately, our goal is to ensure the IRM and training courses contain proper safeguards and controls to minimize the risks of the broader authority employees will have to access and adjust taxpayer accounts. Protecting the integrity of our information systems and employees is our highest priority.