

**Improvements Should Be Made to Better
Control and Report Internal Revenue Service
Restructuring and Reform Act of 1998
Section 1203 Information**

September 2001

Reference Number: 2001-10-188

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 26, 2001

MEMORANDUM FOR DIRECTOR, COMMISSIONER'S
COMPLAINT PROCESSING AND ANALYSIS GROUP
DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS,
TREASURY INSPECTOR GENERAL FOR TAX
ADMINISTRATION

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Improvements Should Be Made to Better
Control and Report Internal Revenue Service Restructuring and
Reform Act of 1998 Section 1203 Information

This report presents the results of our review and recommendations regarding Section (§) 1203 complaints. The objectives of this review were to determine if Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ § 1203 complaints were properly controlled by the IRS and the Treasury Inspector General for Tax Administration (TIGTA), and if RRA 98 § 1203 complaint information was accurately reported in the TIGTA Semiannual Report to the Congress.

In summary, at the time of our review, management could not locate 9 of 173 sampled RRA 98 § 1203 complaints, and management information systems did not contain current information for 22 of the 173 sampled § 1203 complaints. After we brought these issues to the attention of IRS and TIGTA Office of Investigations management, they began taking corrective actions to locate the 9 complaints and update the computer systems for the 22 complaints. We also identified 28 allegations outside of our sample where the § 1203 violation code had been removed from the management information system based on the procedures in effect prior to June 2000. This resulted in information being inconsistently reported in the TIGTA Semiannual

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

Report to the Congress. Additionally, we identified two required § 1203 items that were reported incorrectly in a Fiscal Year (FY) 2000 TIGTA Semiannual Report to the Congress and five items not required to be reported that were overstated in two FY 2000 semiannual reports.

We recommended that IRS and TIGTA Office of Investigations management locate and complete necessary actions for the remaining RRA 98 § 1203 complaints that could not be located, correct the status for the remaining § 1203 complaints where the information was not current, develop a process to better control § 1203 complaints, and ensure that § 1203 complaint information is accurately reported in the TIGTA Semiannual Report to the Congress.

IRS and TIGTA Office of Investigations management agreed with these recommendations. Their comments have been incorporated into the report where appropriate, and the full text of their comments is included as Appendices VI and VII, respectively.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or John R. Wright, Acting Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 1203 provides the IRS Commissioner with the authority to terminate the employment of IRS employees for certain proven violations² committed in connection with the performance of official duties. The IRS Commissioner also has the authority to determine whether mitigating factors exist that weigh against termination. One example of an RRA 98 § 1203 violation is the willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's property. Employees may appeal the charges of § 1203 misconduct throughout the administrative process. However, once all appeals have been exhausted and the IRS Commissioner makes a final decision that an employee committed one of the § 1203 provisions, the final decision cannot be appealed and the employee is removed from Federal service, as required by the RRA 98. RRA 98 § 1102(a) added Internal Revenue Code § 7803(d)(1)(E) (Supp. IV 1998) to require the Treasury Inspector General for Tax Administration (TIGTA) to annually report to the Congress any termination or mitigation under RRA 98 § 1203.

The objectives of this audit were to determine if RRA 98 § 1203 complaints were properly controlled by the IRS and the TIGTA and if RRA 98 § 1203 complaint information was accurately reported in the TIGTA Semiannual Report to the Congress.

Results

The IRS and the TIGTA Office of Investigations can better ensure that RRA 98 § 1203 complaint information is properly controlled and accurately reported in the TIGTA Semiannual Report to the Congress. In general, complaints referred from one office to another within the TIGTA Office of Investigations, or from one office to another within the IRS, were accounted for and arrived at their final destination. However, at the time of

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² See Appendix V for an explanation of the provisions requiring employee removal.

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our review, management could not locate 9 of the 173 complaints³ in our sample, and management information systems did not contain current information for 22 of the 173 complaints in the sample. We also identified 28 allegations⁴ outside of our sample where the § 1203 violation code had been removed from the Investigations Management Information System (IMIS) based on the procedures in effect prior to June 2000. This resulted in information being inconsistently reported in the TIGTA Semiannual Report to the Congress. Additionally, we identified two required § 1203 items that were reported incorrectly in a Fiscal Year (FY) 2000 TIGTA Semiannual Report to the Congress and five items not required to be reported that were overstated in two FY 2000 semiannual reports.

Section 1203 Complaints Could Not Always Be Located and Management Information Was Not Always Current or Consistent

For 31 of the 173 complaints in our sample, either the complaints could not be located from information recorded on the computer databases (9 complaints) or the computer databases did not contain current information about the complaints (22 complaints). We projected our findings to the total population of 1,213 open § 1203 complaints on the IRS and TIGTA databases as of September 30, 2000. According to the projection, casework may not have been completed for an estimated 38 complaints (± 1.93 percent) and the computer databases may not contain current information for another 125 complaints (± 4.23 percent).⁵ After we brought these issues to the attention of IRS and TIGTA Office of Investigations management, they began taking corrective actions to locate the 9 complaints and update the computer systems for the 22 complaints.

Section 1203 Complaint Information Reported in the Semiannual Reports to the Congress Was Not Always Accurate and Did Not Represent All Complaints

We compared § 1203 complaint information reported in the FY 2000 TIGTA Semiannual Reports to the Congress to § 1203 complaint documentation obtained from the IRS Commissioner's Complaint Processing and Analysis Group (CCPAG) and from

³ All § 1203 complaints are entered onto computer inventory systems upon receipt and complaint documents are either scanned into the inventory system or controlled in a paper file. For nine of the complaints in the samples, management could not locate the paper complaint file based on the information recorded on the inventory systems.

⁴ One complaint may contain multiple allegations.

⁵ See Appendix IV for an explanation of the ranges of complaints (± 1.93 percent and ± 4.23 percent) that could be affected.

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the TIGTA Complaint Management Division. Two required § 1203 items were reported incorrectly in one FY 2000 Semiannual Report and five items not required to be reported were overstated in two FY 2000 Semiannual Reports.

Summary of Recommendations

We recommend that IRS CCPAG and TIGTA Office of Investigations management locate and complete necessary actions for the remaining RRA 98 § 1203 complaints that could not be located, correct the computer databases for those § 1203 complaints where the information was not current, ensure compliance with existing procedures for processing § 1203 complaints, devise a method to ensure § 1203 complaints can be located in the future, and ensure that § 1203 complaint information is accurately reported in the TIGTA Semiannual Report to the Congress.

Management's Response: IRS CCPAG and TIGTA Office of Investigations management agreed with the observations and recommendations in the report. Both offices took immediate action to resolve the remaining complaints we could not locate and to correct the computer databases where the information was not current. In addition, controls will be strengthened to ensure compliance with existing procedures for processing § 1203 complaints and to ensure that § 1203 complaint information is accurately reported in the TIGTA Semiannual Report to the Congress.

IRS and TIGTA management's complete responses to the draft report are included as Appendices VI and VII, respectively.

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Objectives and Scope

The objectives of this audit were to determine if RRA 98 § 1203 complaints were properly controlled by the IRS and the TIGTA and if § 1203 complaint information was accurately reported in the TIGTA Semiannual Report to the Congress.

The overall objectives of this audit were to determine if Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 1203 complaints were properly controlled by the IRS and the Treasury Inspector General for Tax Administration (TIGTA) and if § 1203 complaint information was accurately reported in the TIGTA Semiannual Report to the Congress. Audit work was performed in the IRS Commissioner's Complaint Processing and Analysis Group (CCPAG) and the TIGTA Office of Investigations' Complaint Management Division (CMD). The audit was conducted between December 2000 and April 2001 and was performed in accordance with *Government Auditing Standards*.

To accomplish the objectives, we:

- Interviewed IRS CCPAG and TIGTA CMD personnel to determine how complaints are received, controlled, tracked, and eventually reported in the TIGTA Semiannual Report to the Congress.
- Reviewed a statistically valid sample of 173 open § 1203 complaints from the IRS and the TIGTA Office of Investigations databases as of September 30, 2000, to determine if the complaints were properly controlled.
- Reviewed documentation from the IRS CCPAG and the TIGTA CMD to determine the accuracy of the § 1203 complaint information reported in the TIGTA Semiannual Reports to the Congress for the

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6-month periods ending March 31, 2000, and
September 30, 2000.

Details of the audit objectives, scope, and methodology
are presented in Appendix I. Major contributors to this
report are listed in Appendix II.

Background

*RRA 98 § 1203 provides the
IRS Commissioner with the
authority to remove IRS
employees for certain proven
violations committed in
connection with the
performance of official duties.*

On July 22, 1998, the President signed the RRA 98 into law. RRA 98 § 1102(a) added Internal Revenue Code (I.R.C.) § 7803(d)(1)(E) (Supp. IV 1998) to require the TIGTA to annually report to the Congress any termination or mitigation under RRA 98 § 1203. Section 1203 provides the IRS Commissioner with the authority to terminate the employment of IRS employees for certain proven violations² committed in connection with the performance of their official duties. The IRS Commissioner also has the authority to determine whether mitigating factors exist that weigh against termination. One example of an RRA 98 § 1203 violation is the willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's property.

*Section 1203 complaints may
be investigated within the IRS
or within the TIGTA Office of
Investigations.*

IRS employees and taxpayers may submit § 1203 complaints through e-mail, regular mail, telephone, or fax to any office within the IRS or the TIGTA Office of Investigations. Once received, § 1203 complaints may be investigated by either the IRS or the TIGTA Office of Investigations. In most instances, the TIGTA is given the opportunity to review a § 1203 complaint to decide who should conduct the investigation. The following explains the types of § 1203 complaints investigated by the IRS and the TIGTA.

² See Appendix V for an explanation of the provisions requiring employee removal.

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Complaints that must be referred to the TIGTA

With the exception of potential Equal Employment Opportunity-related complaints and tax-related issues, the following complaints are referred directly and immediately to the TIGTA Office of Investigations:

- Section 1203 complaints related to all managers, Senior Executive Service, Criminal Investigation, or GS-15 employees.
- Section 1203 complaints related to false statements under oath, falsification of documents, assault or battery, confidentiality and disclosure of return information, or threat of audit.

Complaints that may be referred to the TIGTA

Based on preliminary investigation by the IRS, complaints related to the remaining § 1203 provisions may be referred to the TIGTA Office of Investigations, as follows:

- Section 1203 complaints related to seizures, constitutional rights, or harassment/retaliation, if IRS management determines that a potential § 1203 violation exists and threshold criteria have been met.
- Section 1203 complaints related to discrimination (civil rights), if IRS management determines that a potential § 1203 violation exists and specific criteria have been met.
- Section 1203 complaints related to late filing or the understatement of tax liability, if IRS management determines that a potential § 1203 violation exists and the facts indicate a potential criminal violation.

If the TIGTA Office of Investigations declines to conduct an investigation, the complaint is referred to the IRS through the CCPAG. The IRS Commissioner established the CCPAG to enhance the IRS' responsiveness to employee and taxpayer complaints. In October 1999, the CCPAG began receiving and

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controlling all § 1203 complaints referred from the TIGTA to the IRS.

Evaluation of § 1203 Complaints

Once the facts are established through an inquiry or investigation, IRS managers, with the assistance of local labor relations specialists and the staff of the Centralized Adjudication Unit (CAU), evaluate the information to determine if a § 1203 violation has occurred. If there is sufficient evidence to support that a § 1203 violation occurred, the employee is given a letter advising that the IRS proposes to remove him or her from Federal service. The employee has a right to respond to this letter orally or in writing. After the employee responds to the letter, a deciding IRS management official determines if the evidence supports the § 1203 violation charge. This factual determination may be reviewed through arbitration or the employee may appeal the charge of § 1203 misconduct to the Merit Systems Protection Board. If the employee's appeal is not successful and the § 1203 violation remains supported, the case is forwarded to the Commissioner's § 1203 Review Board for evaluation.

The Commissioner's § 1203 Review Board evaluates all cases where there is enough evidence to support the § 1203 violation charge and recommends a disciplinary action (either termination or mitigation) for each case. The Review Board only forwards a § 1203 case to the IRS Commissioner if it determines that the Commissioner should consider mitigation. If the Review Board determines that the Commissioner should not consider mitigation, the case is returned to the deciding IRS management official and the employee is removed from Federal service under the authority of the Commissioner, as required by the RRA 98.

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Once the IRS Commissioner reaches a final decision to remove the employee, the decision cannot be appealed.

Employees have the same rights to appeal a removal action as they did before the enactment of the RRA 98 and may appeal the charges of § 1203 misconduct throughout the administrative process. However, once the IRS Commissioner makes a final judicial or administrative determination³ that an employee committed one of the § 1203 provisions, the final decision cannot be appealed and the employee is removed from Federal service, as required by the RRA 98.

During the time period covered by our review, the TIGTA Office of Investigations used the Investigations Management Information System (IMIS) to control and track § 1203 complaints. If a complaint involves allegations against more than one IRS employee, the TIGTA tracks each employee as a separate allegation. The IRS uses two computer systems, the Automated Labor and Employee Relations Tracking System (ALERTS) and the Executive Correspondence Management System (ECMS), to control and track § 1203 complaints.

When the RRA 98 became law on July 22, 1998, the IRS and the TIGTA Office of Investigations began developing procedures for the processing of § 1203 complaints. As with any new process, many procedures changed during the beginning stages as each organization determined the best way to jointly handle these complaints. As a result, the processes and systems for controlling § 1203 complaints evolved as both the IRS and the TIGTA gained experience in implementing the law.

³ A final judicial or administrative determination is any matter for which all appeals have been exhausted, or the time for all appeals has expired.

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Results

The IRS and the TIGTA Office of Investigations can better ensure that § 1203 complaint information is properly controlled and accurately reported in the TIGTA Semiannual Report to the Congress.

The IRS and the TIGTA Office of Investigations can better ensure that RRA 98 § 1203 complaint information is properly controlled and accurately reported in the TIGTA Semiannual Report to the Congress. In general, complaints referred from one office to another within the TIGTA Office of Investigations, or from one office to another within the IRS, were accounted for and arrived at their final destination.

However, at the time of our review, management could not locate 9 of the 173 complaints⁴ in our sample, and management information systems did not contain current information for 22 of the 173 complaints in the sample. After we brought these issues to the attention of IRS and TIGTA Office of Investigations management, they began taking corrective actions to locate the 9 complaints and update the computer systems for the 22 complaints. We also identified 28 allegations outside of our sample where the § 1203 violation code had been removed from the IMIS based on the procedures in effect prior to June 2000. This resulted in information being inconsistently reported in the TIGTA Semiannual Report to the Congress.

Additionally, we identified two required § 1203 items that were reported incorrectly in a Fiscal Year (FY) 2000 TIGTA Semiannual Report to the Congress and five items not required to be reported that were overstated in two FY 2000 semiannual reports.

⁴ All § 1203 complaints are entered onto a computer inventory system upon receipt and complaint documents are either scanned into the inventory system or controlled in a paper file. For nine of the complaints in the sample, management could not locate the paper complaint file based on the information recorded on the inventory systems.

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**Section 1203 Complaints Could Not Always Be
Located and Management Information Was Not
Always Current or Consistent**

There were 31 complaints from our sample that either could not be located or where the computer databases did not contain current information.

For 31 of the 173 complaints in our sample, either the complaints could not be located from information recorded on the computer databases (9 complaints) or the computer databases did not contain current information about the complaints (22 complaints). We projected our findings to the total population of 1,213 open § 1203 complaints on the IRS and the TIGTA databases as of September 30, 2000. According to the projection, casework may not have been completed for an estimated 38 complaints (± 1.93 percent) and the computer databases may not contain current information for another 125 complaints (± 4.23 percent).⁵

In addition to reviewing the sample of complaints, we analyzed the IMIS and identified 28 allegations where the § 1203 violation code had been removed from the system, which resulted in information being inconsistently reported in the TIGTA Semiannual Report to the Congress.

Transfers were not properly controlled for nine complaints

Nine complaints that were transferred between offices could not be located.

At the time of our review, neither the IRS nor the TIGTA Office of Investigations could locate 9 of the 173 complaints (5 percent) reviewed. Seven of the nine complaints that could not be located were transferred from the TIGTA Office of Investigations to the IRS. As a result, we could not determine if the IRS had completed its investigation for these complaints.

- Five complaints were referred to the IRS according to the IMIS, but neither the IRS nor the TIGTA

⁵ See Appendix IV for an explanation of the ranges of complaints (± 1.93 percent and ± 4.23 percent) that could be affected.

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Office of Investigations could provide us with a copy of the required transmittal form, Complaint Referral Memorandum - Response Required (Form 2070), during the time of our review.

- One complaint was referred using Form 2070, but the TIGTA Office of Investigations did not have a receipted copy of the Form 2070 to show that the complaint reached its final destination. The TIGTA Office of Investigations had referred the complaint to a former IRS Regional Commissioner's office before the CCPAG was established.
- One complaint was referred using Form 2070 and the TIGTA Office of Investigations had a receipted Form 2070, indicating that the CCPAG received the complaint. However, the complaint was not controlled on the ALERTS, which indicates that the complaint may not have been worked.

The two remaining complaints that could not be located were transferred from the CAU to a field Labor Relations office. However, the field Labor Relations offices had no record of receiving the complaints.

Transmittal forms are generally used to help ensure that management maintains control of the documents as they are transferred from one office to another. Use of a transmittal form generally requires the receiving official to acknowledge receipt of the document by sending a signed copy of the form back to the originator. The TIGTA Office of Investigations requires the use of Form 2070 as a transmittal form when transferring complaints.

IRS management does not require the use of a document transmittal when transferring complaints within the IRS. Instead, a cover letter is attached to the complaint and the computer database is updated to show the complaint was transferred. However, with this method of transfer, there is no follow-up to ensure the employee receives the complaint.

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Complaints cannot be tracked systemically when transferred between IRS and TIGTA offices.

One complicating factor that increases the difficulty of tracking complaints as they are transferred between the IRS and the TIGTA Office of Investigations is the lack of a uniform complaint numbering system to identify complaints in both offices that are recorded on different computer systems. Because the IRS and the TIGTA computer systems were not designed to be integrated with each other, each uses a different numbering system to identify complaints. Without a common field to link the computer systems, complaints that are transferred between the IRS and the TIGTA Office of Investigations cannot be systemically tracked between the two organizations.

If § 1203 complaints are not properly controlled, the administrative action required by law may not be taken by the IRS Commissioner. Uncontrolled complaints could also result in § 1203 information being understated in the TIGTA Semiannual Report to the Congress. Additionally, if all actions are not completed on complaints, employees may not have the opportunity to be proven innocent.

Computer information was not current for 22 complaints

The computer systems did not reflect current complaint information for 22 complaints.

Information contained on the IRS and the TIGTA computer systems was not current for 22 of the 173 complaints (13 percent) in our sample at the time of our review. Generally, for these 22 complaints, the IMIS, the ALERTS, or the ECMS databases either had not been updated to show the most current work on the case or the information had been entered incorrectly. For example, the IMIS database indicated that ten complaints had been referred to the IRS for action, although the IRS had completed action on the complaints and closed them on its databases. For two other complaints, the IMIS database showed the complaints had been sent to the CMD when they had actually been referred to the IRS for action.

The IRS and the TIGTA Office of Investigations rely on accurate management information to document the

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location of complaints and to report § 1203 information. Complaints are entered onto computer inventory systems when received, and IRS and TIGTA employees are responsible for updating their respective computer systems whenever complaints are referred from one office to another or when the status of a complaint changes. If information is not updated when the status of a complaint changes (i.e., open, closed, referred), the accuracy of the TIGTA Semiannual Report to the Congress could be affected.

Computer information was not consistent for 28 allegations

Twenty-eight complaints were coded as § 1203 violations in March 2000 but not in September 2000, resulting in information being inconsistently reported in the TIGTA Semiannual Report to the Congress.

The general § 1203 information reported in the semiannual report relies on accurate § 1203 violation code information. However, a comparison of the September 2000 IMIS data with the March 2000 IMIS data identified 28 allegations that were originally coded as § 1203 violations in March, but were no longer coded as § 1203 violations in September. The TIGTA enters all § 1203 allegations received into the IMIS; however, prior to June 2000, TIGTA employees sometimes removed the § 1203 violation code if the allegation did not meet specific § 1203 criteria. We could not determine when the § 1203 violation code for the 28 allegations had been removed, prior to June 2000 or after.

The TIGTA Office of Investigations added procedures in June 2000 to require the retention of the § 1203 violation code on the IMIS as originally entered. For example, the TIGTA uses the § 1203 violation code to determine the number of allegations received involving potential § 1203 violations. However, if the initial investigation shows the charge of § 1203 misconduct is not supported, the TIGTA does not remove the § 1203 violation code from the IMIS. Instead, the TIGTA continues to show the complaint as an *allegation* of § 1203 misconduct on the IMIS and updates the complaint record with the appropriate closing code to show the allegation was not supported.

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Consistent treatment of the § 1203 violation code is important because this code is used in reporting information in the TIGTA Semiannual Report to the Congress. Removing the § 1203 violation code from an allegation on the IMIS reduces the total number of allegations received involving potential § 1203 violations reported in the semiannual report. As a result, information was inconsistently reported in the TIGTA Semiannual Report to the Congress.

Recommendations

1. IRS CCPAG and TIGTA Office of Investigations management should locate and complete necessary actions for the remaining RRA 98 § 1203 complaints that could not be located and should correct the status for the remaining § 1203 complaints where the information was not current.

Management's Response: CCPAG and TIGTA Investigations management have either found, or recreated and resolved the remaining complaints that could not be located. They have also updated the remaining complaints where status information was not current.

2. IRS CCPAG and TIGTA Office of Investigations management should develop a process to better control § 1203 complaints. The process should include:
 - Using a transmittal form to transfer complaints between the IRS and the TIGTA.
 - Acknowledging receipt (via transmittal form) of the complaint by the receiving office (for complaints transferred between the IRS and the TIGTA).
 - Following up with the receiving office if receipt of the complaint is not acknowledged (for complaints transferred between the IRS and the TIGTA).

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- Following up with the receiving office to ensure the complaint was received (for complaints transferred within the IRS).
- Updating the complaint status on all relevant computer databases when complaints are transferred or closed.
- Exploring the feasibility of capturing a unique complaint number on the IRS and TIGTA databases.

Management's Response: The CCPAG management processes have evolved and they now have an electronic system in place to control the transfer of complaints within the IRS and a manual system to control the transfer of complaints outside the IRS. Both systems provide a verification of receipt, a trail of actions, and a means to follow-up to ensure complaints are not lost. Information is exchanged with the TIGTA Office of Investigations to show actions taken on complaints. Also, the CCPAG decided the use of a common complaint number was not feasible without a common information system.

The TIGTA Office of Investigations has a manual process in place to control the transfer of complaints. Special Agents in Charge (SAC) will be advised, via memorandum, of their responsibilities to verify receipt of any § 1203 complaints forwarded to the IRS. Also, the SACs and the CMD will be advised of the importance of current and accurate information on their management information systems. In addition, a field is available to capture an IRS complaint number, if applicable.

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3. TIGTA Office of Investigations management should develop a consistent method for identifying the number of § 1203 allegations received for reporting in the TIGTA Semiannual Report to the Congress.

Management's Response: Notification will be provided to TIGTA Office of Investigations personnel that once a § 1203 complaint is entered into the management information system, the violation code will only be removed if management has determined the code was placed there in error.

**Section 1203 Complaint Information Reported
in the Semiannual Reports to the Congress
Was Not Always Accurate and Did Not
Represent All Complaints**

We compared § 1203 complaint information reported in the FY 2000 TIGTA Semiannual Reports to the Congress to § 1203 complaint documentation obtained from the IRS CCPAG and the TIGTA CMD. Two required items were reported incorrectly in one FY 2000 semiannual report and five items not required to be reported were overstated in two FY 2000 semiannual reports.

The following chart summarizes the § 1203 information reported in the FY 2000 TIGTA Semiannual Reports to the Congress. The information on terminations and mitigated cases is required by the RRA 98; the other information is not required, but represents the actions taken on the § 1203 allegations received by the TIGTA.

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Reported Versus Actual § 1203 Information

	Reported	Actual	Overstated/ (Understated)
April FY 2000 Semiannual Report			
<i>Information Required By RRA 98:</i>			
Terminations	11	11	0
Mitigated Cases	0	0	0
<i>Other General Information:</i>			
§ 1203 Allegations Received	369	369	0
§ 1203 Investigations Initiated	89	78	11
Open § 1203 Investigations	65	56	9
Closed § 1203 Investigations	24	22	2
§ 1203 Complaints Referred to the IRS	213	199	14
October FY 2000 Semiannual Report			
<i>Information Required By RRA 98:</i>			
Terminations	15	17	(2)
Mitigated Cases	1	2	(1)
<i>Other General Information:</i>			
§ 1203 Allegations Received	257	251	6
§ 1203 Investigations Initiated	164	164	0
Open § 1203 Investigations	132	132	0
Closed § 1203 Investigations	32	32	0
§ 1203 Complaints Referred to the IRS	108	108	0

Source: FY 2000 TIGTA Semiannual Reports to the Congress, TIGTA's IMIS database, and documentation from the CCPAG.

The numbers of § 1203 terminations and mitigated cases were not always accurately reported by the IRS

We identified all § 1203 cases evaluated by the Commissioner's § 1203 Review Board during FY 2000 and compared the final disciplinary actions recommended by the Review Board (termination or mitigation) with CCPAG Outreach and Policy Support information and with the ALERTS computer data to determine the accuracy of the number of terminations and mitigated cases reported in the FY 2000 TIGTA Semiannual Reports to the Congress. The IRS is responsible for accurately reporting the number of terminations and mitigated cases to the TIGTA for inclusion in the TIGTA Semiannual Report to the Congress.

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The number of terminations and mitigated cases was understated by three in the TIGTA Semiannual Report to the Congress for the 6-month period ending September 30, 2000.

Based upon incorrect information provided by the IRS, the TIGTA reported 15 terminations and 1 mitigated case in its Semiannual Report to the Congress for the 6-month period ending September 30, 2000. However, there were actually 17 terminations and 2 mitigated cases recorded on the IRS computer systems for this period. I.R.C. § 7803(d)(1)(E) (Supp. IV 1998) requires the TIGTA to annually report to the Congress all terminations or mitigated cases under RRA 98 § 1203.

The IRS tracks all personnel actions on the ALERTS; however, at the time the data was gathered for the semiannual report, the CCPAG Outreach and Policy Support staff did not have direct access to the ALERTS. Instead, the CCPAG staff relied on a “data call”⁶ to determine the total number of terminations and mitigated cases to report to the TIGTA Office of Investigations, but did not have access to the computer data to ensure that the numbers were correct and complete. In January 2001, the CCPAG Outreach and Policy Support function was given direct access to this computer data and became solely responsible for tracking the number of terminations and mitigated cases under § 1203. This should prevent the problem from recurring.

General § 1203 information was not always accurately reported by the Office of Investigations

In addition to reporting the required information on terminations and mitigated cases under § 1203 in its Semiannual Report to the Congress, the TIGTA Office of Investigations also includes general § 1203 information, such as the number of § 1203 allegations received by the TIGTA and the number of § 1203 investigations initiated.

⁶ A “data call” is a request, typically via letter, for information from various sources when the information needed cannot be collected through any other means.

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Five general § 1203 items were overstated in two FY 2000 TIGTA Semiannual Reports to the Congress.

However, five⁷ § 1203 items not required to be reported were overstated in two FY 2000 TIGTA Semiannual Reports to the Congress. These overstatements could have been prevented if the § 1203 information had been independently verified prior to issuance of the semiannual reports, in accordance with internal guidelines.

For example, for the 6-month period ending March 30, 2000, the number of § 1203 investigations initiated was overstated by 11 and the number of § 1203 complaints referred to the IRS was overstated by 14. The inaccuracies for this reporting period occurred because the TIGTA CMD staff who consolidated the § 1203 information did not always use the correct criteria in their calculations.

For the 6-month period ending September 30, 2000, the TIGTA overstated the number of § 1203 allegations received by six. This overstatement occurred because the CMD staff calculated the number of § 1203 allegations received for the entire fiscal year and then subtracted the number of § 1203 allegations reported in the previous 6-month period. This methodology should have worked; however, the § 1203 violation code had been changed for several of the § 1203 allegations reported in the previous 6-month period.

Reported information did not include the results of all § 1203 complaints

The type of information on § 1203 complaints presented in the TIGTA Semiannual Report to the Congress complies with the RRA 98 requirements. In addition, the TIGTA Office of Investigations includes general § 1203 information that is not required by the law.

⁷ See the chart on page 14 for an explanation of the five items.

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The TIGTA could provide additional information in its Semiannual Report to present a more complete picture of actions resulting from § 1203 violations.

We identified several other types of information that might be useful in presenting a more complete picture of the results of § 1203 complaints, such as the number of:

- Employees under investigation who chose to resign or retire in lieu of termination under § 1203.
- Employees whose removal (termination) during their probationary period was due to a § 1203 violation.
- Employees whose charge of § 1203 misconduct, and subsequent termination, was reversed through an appeal.
- Section 1203 complaints received and investigated within the IRS that do not require TIGTA investigation.

Although this information is not required, it would provide a more complete picture of actions resulting from § 1203 complaints. For example, from July 22, 1998, (the date the RRA 98 was enacted) through March 31, 2001, there were 41 terminations under § 1203. However, there were 93 additional employees during this same period that resigned or retired after § 1203 administrative procedures were initiated. The 93 resignations or retirements were not reported in any TIGTA Semiannual Report to the Congress.

Recommendations

4. TIGTA CMD management should ensure that the general § 1203 information is verified before it is included in the TIGTA Semiannual Report to the Congress.

Management's Response: Standard criteria have been developed to extract § 1203 information. In addition, an independent review of the information will be conducted prior to its release.

5. The TIGTA Office of Investigations should consider reporting in the Semiannual Report to the Congress the number of employees who retire or resign in lieu

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of termination under § 1203, the number of employees who are removed during their probationary period due to a § 1203 violation, the number of employees whose charge of § 1203 misconduct (and subsequent termination) is reversed through an appeal, and the number of § 1203 complaints received and investigated within the IRS that do not require TIGTA investigation.

Until the number of § 1203 complaints received and investigated within the IRS (not requiring TIGTA investigation) can be included in the semiannual report, TIGTA Office of Investigations management should clarify that the § 1203 numbers reported in the TIGTA Semiannual Report to the Congress do not depict the results of all § 1203 violations.

Management's Response: TIGTA Office of Investigations management will consider reporting this information in future Semiannual Reports.

Conclusion

The IRS and the TIGTA Office of Investigations can better ensure that RRA 98 § 1203 complaint information is properly controlled and accurately reported in the TIGTA Semiannual Report to the Congress. Due to the sensitivity of § 1203 complaints, improvements should be made to ensure that § 1203 complaints are properly controlled when transferred between offices, that complaint information on computer databases is current, and that § 1203 information is verified before being included in the TIGTA Semiannual Report to the Congress.

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Appendix I

Detailed Objectives, Scope, and Methodology

The overall objectives of this audit were to determine if Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 1203 complaints were properly controlled by the IRS and the Treasury Inspector General for Tax Administration (TIGTA) and if RRA 98 § 1203 complaint information was accurately reported in the TIGTA Semiannual Report to the Congress. We performed the following work:

- I. Determined if § 1203 complaints were properly controlled by the IRS and the TIGTA Office of Investigations.
 - A. Interviewed IRS Commissioner's Complaint Processing and Analysis Group (CCPAG) personnel to determine how complaints are received, controlled, and tracked. Performed a walk-through of the CCPAG and prepared a flowchart of the process.
 - B. Interviewed TIGTA Complaint Management Division (CMD) personnel to determine how complaints are received, controlled, and tracked. Performed a walk-through of the CMD and prepared a flowchart of the process.
 - C. Obtained an extract of the TIGTA Investigations Management Information System (IMIS) as of September 30, 2000, and requested all § 1203 records from the IRS' Automated Labor and Employee Relations Tracking System (ALERTS) and the Executive Correspondence Management System (ECMS) as of September 30, 2000. Identified 211 § 1203 complaints on the IMIS in the status "referred to the IRS" and 36 § 1203 complaints on the ALERTS or the ECMS in the status "referred to the TIGTA" as of September 30, 2000.
 - D. Identified 321 open § 1203 complaints on the IMIS and 645 open § 1203 complaints on the ALERTS or the ECMS that were in a "non-referred" status as of September 30, 2000.
 - E. Selected a statistically valid sample of 70 open § 1203 complaints from the population identified in Step I.C. that were referred either from the IRS to the TIGTA Office of Investigations (10 complaints) or from the TIGTA Office

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

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of Investigations to the IRS (60 complaints). Located the complaints and obtained copies of the complaint history documentation. Based the sample selection criteria on the following criteria:

<u>Referred</u>	<u>Total</u>	<u>IMIS</u>	<u>ALERTS</u>	<u>ECMS</u>
Population	247	211	12	24
Precision	10 %			
Error Rate	50%			
Confidence Level	95%			
Sample Size	70	60	3	7

Our precision and error rates were larger in the referred sample than in the non-referred sample (Step I.F.) because, in our opinion, complaints transferred between offices had a higher risk of not being controlled than complaints that were not transferred. We used an expected error rate of 50 percent to provide the largest potential sample. We used a 10 percent precision rate because if we found uncontrolled complaints, the precision of the sample would be immaterial.

- F. Selected a statistically valid sample of 103 open § 1203 complaints from the population identified in Step I.D. that were in a “non-referred” status on the IRS systems (69 complaints) or the TIGTA system (34 complaints). Located the complaints and obtained copies of the complaint history documentation. Based the sample selection criteria on the following criteria:

<u>Non-referred</u>	<u>Total</u>	<u>IMIS</u>	<u>ALERTS</u>	<u>ECMS</u>
Population	966	321	418	227
Precision	4%			
Error Rate	5%			
Confidence Level	95%			
Sample Size	103	34	45	24

- II. Determined if § 1203 complaint information was accurately reported in the Fiscal Year (FY) 2000 TIGTA Semiannual Reports to the Congress.

A. Interviewed appropriate CCPAG and CMD personnel to determine:

1. The process for compiling and reporting the required information on terminations or mitigated cases under § 1203.
2. The process for compiling and reporting information regarding TIGTA § 1203 complaint investigations.

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- B. Identified all § 1203 cases reviewed by the Commissioner's 1203 Review Board for FY 2000 and determined if the disciplinary actions (termination or mitigation) taken on these cases were reflected in the respective TIGTA Semiannual Report to the Congress.
- C. Determined the accuracy of the general § 1203 information reported in the FY 2000 TIGTA Semiannual Reports to the Congress.
- D. Identified all complaints that were coded as § 1203 on the March 2000 IMIS database but were not coded as § 1203 on the September 2000 IMIS database.

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Appendix II

Major Contributors to This Report

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Andrew J. Burns, Auditor

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Appendix III

Report Distribution List

Commissioner N:C
Assistant Deputy Commissioner N:ADC
Chief, Agency-Wide Shared Services A
Commissioner, Large and Mid-Size Business Division LM
Commissioner, Small Business/Self-Employed Division S
Commissioner, Tax Exempt and Government Entities Division T
Commissioner, Wage and Investment Division W
Chief Counsel CC
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
National Taxpayer Advocate TA
Office of Management Controls N:CFO:F:M
Audit Liaisons:
 Commissioner's Complaint Processing & Analysis Group N:ADC:C
 Chief, Agency-Wide Shared Services A:W

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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Reliability of Information:

Actual – 28 allegations for which computer information was not consistent (see page 7).

Potential – 38 complaints (\pm 1.93 percent) where casework may not have been completed and another 125 complaints (\pm 4.23 percent) where the computer databases may not contain current information (see page 7).

Methodology Used to Measure the Reported Benefit:

Actual - We compared the March 2000 Treasury Inspector General for Tax Administration (TIGTA) Investigations Management Information System (IMIS) to the September 2000 TIGTA IMIS and identified 28 allegations that were coded as Section (§) 1203 violations in March, but were no longer coded as § 1203 violations in September. The § 1203 violation code had been removed from the system for these 28 allegations.

Potential - We obtained an extract of the TIGTA IMIS and requested all § 1203 records from the Internal Revenue Service's (IRS) Automated Labor and Employee Relations Tracking System and the Executive Correspondence Management System as of September 30, 2000. From these data extracts, we identified 1,213 open § 1203 complaints on the IRS and TIGTA databases as of September 30, 2000. We stratified the § 1203 complaint population into two sub-populations: complaints that were in a referred status and complaints that were not in a referred status.

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We randomly selected a statistically valid sample of 173 complaints from the 2 sub-populations. Details of our methodology are presented in Appendix I. The following chart summarizes the population sizes, sample sizes, and the numbers of exceptions (errors) found in each sample.

Sub-population	Population Size	Sample Size	Exceptions	
			Complaints that Could Not Be Located	Complaints with Incorrect Status
Referred complaints	247	70	8	14
Non-referred complaints	966	103	1	8
Totals	1,213	173	9	22

To proportionately weight the results from each sample, we divided each sub-population of complaints (referred and non-referred) by the total population of complaints, as follows.

$$247 \text{ referred complaints} / 1,213 \text{ total complaints} = 0.2036$$

$$966 \text{ non-referred complaints} / 1,213 \text{ total complaints} = 0.7964$$

For each exception category (complaints that could not be located and complaints with incorrect status), we calculated the estimated percent of error in the total population, as follows:

Complaints that could not be located

- Calculated the error rate within each sub-population by dividing the number of complaints that could not be located in each sample by the total number of complaints in that sample.

$$8 \text{ complaints could not be located} / 70 \text{ referred complaints sampled} = 0.1143$$

$$1 \text{ complaint could not be located} / 103 \text{ non-referred complaints sampled} = 0.0097$$

- Multiplied the error rate from each sub-population by its weighted proportion to the total population and added the results.

$$(0.2036 * 0.1143) + (0.7964 * 0.0097) = 0.0310034726$$

$$0.0310034726 = 3.1 \text{ percent error in total population}$$

- Multiplied the total population by the percent of error.

$$1,213 * 3.1 \text{ percent} = 38 \text{ complaints that could not be located.}$$

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Lower and Upper Limits

- Calculated the lower limit of the error rate.¹

$$0.0310034726 - \text{NORMSINV}(0.975) * \text{SQRT}(((1/1213)^2 * (247^2 * ((247-70)/247) * ((8/70) * (62/70)/69) + 966^2 * ((966-103)/966) * ((1/103) * (102/103)/102))) = 0.0117004877$$

- Calculated the upper limit of the error rate.

$$0.0310034726 + \text{NORMSINV}(0.975) * \text{SQRT}(((1/1213)^2 * (247^2 * ((247-70)/247) * ((8/70) * (62/70)/69) + 966^2 * ((966-103)/966) * ((1/103) * (102/103)/102))) = 0.0503064574$$

- Calculated the difference between the error rate in the total population and the lower and upper limits of error.²

$$\text{Lower limit: } 0.0117004877 - 0.0310034726 = -0.0193029848 \text{ (negative 1.93 percent)}$$

$$\text{Upper limit: } 0.0503064574 - 0.0310034726 = 0.0193029848 \text{ (positive 1.93 percent)}$$

Complaints with incorrect status

- Calculated the error rate within each sub-population by dividing the number of instances where the computer databases did not contain current information in each sample by the total number of complaints in that sample.

$$14 \text{ complaints with incorrect status} / 70 \text{ referred complaints sampled} = 0.2000$$

$$8 \text{ complaints with incorrect status} / 103 \text{ non-referred complaints sampled} = 0.0777$$

- Multiplied the error rate from each sub-population by its weighted proportion to the total population and added the results.

$$(0.2036 * 0.2000) + (0.7964 * 0.0777) = 0.1025796589$$

$$0.1025796589 = 10.26 \text{ percent error in total population}$$

¹ In the upper and lower limit formulas, the function NORMSINV returns the inverse of the standard normal cumulative distribution. The distribution has a mean of zero and a standard deviation of one. The function SQRT returns a positive square root.

² The lower and upper limits equal the projected number of complaints that could not be located (38 complaints) plus or minus 1.93 percent.

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- Multiplied the total population by the percent of error.
 $1,213 * 10.26 \text{ percent} = 125 \text{ complaints}^3$ where the computer databases may not contain current information.

Lower and Upper Limits

- Calculated the lower limit of the error rate.
 $0.1025796589 - \text{NORMSINV}(0.975) * \text{SQRT}((1/1213)^2 * (247^2 * ((247-70)/247) * ((14/70) * (56/70)/69) + 966^2 * ((966-103)/966) * ((8/103) * (95/103)/102))) = 0.0602323072$
- Calculated the upper limit of the error rate.
 $0.1025796589 + \text{NORMSINV}(0.975) * \text{SQRT}((1/1213)^2 * (247^2 * ((247-70)/247) * ((14/70) * (56/70)/69) + 966^2 * ((966-103)/966) * ((8/103) * (95/103)/102))) = 0.1449270105$
- Calculated the difference between the error rate in the total population and the lower and upper limits of error.⁴
Lower limit: $0.0602323072 - 0.1025796589 = -0.0423473517$ (negative 4.23 percent)
Upper limit: $0.1449270105 - 0.1025796589 = 0.0423473517$ (positive 4.23 percent)

³ The actual result of the equation is 124.4291262136, but we rounded the result up to 125 because it is impossible to have a portion of a complaint.

⁴ The lower and upper limits equal the projected number of complaints where the computer databases may not contain current information (125 complaints) plus or minus 4.23 percent.

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Appendix V

**Internal Revenue Service Restructuring and Reform Act of 1998¹
Section 1203 Provisions Requiring Termination of Employment**

The Internal Revenue Service (IRS) must terminate the employment of an IRS employee (absent direct intervention by the IRS Commissioner) if there is a final administrative or judicial determination that, in the course of his or her official duties, the employee committed one of the following provisions:

- § 1203(b)(1) Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets.
- § 1203(b)(2) Providing false statements under oath with respect to a material matter involving a taxpayer or taxpayer representative.
- § 1203(b)(3) With respect to a taxpayer, taxpayer representative, or other employee of the IRS, the violation of:
- (A) Any right under the Constitution of the United States; or
 - (B) Any civil right established under:
 - (i) Title VI or VII of the Civil Rights Act of 1964,²
 - (ii) Title IX of the Education Amendments of 1972,³
 - (iii) The Age Discrimination in Employment Act of 1967,⁴
 - (iv) The Age Discrimination Act of 1975,⁵

¹Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² 42 U.S.C. §§ 2000a - 2000h (1994).

³ 20 U.S.C. §§ 1681-1688 (1994).

⁴ 29 U.S.C. §§ 621 et seq. (1994).

⁵ 42 U.S.C. §§ 6101 et seq. (1994).

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(v) Section 501 or 504 of the Rehabilitation Act of 1973,⁶ or

(vi) Title I of the Americans with Disabilities Act of 1990.⁷

- § 1203(b)(4)** Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative.
- § 1203(b)(5)** Assault or battery on a taxpayer, taxpayer representative, or other employee of the IRS, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery.
- § 1203(b)(6)** Violations of the Internal Revenue Code (I.R.C.) of 1986, Department of Treasury regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the IRS.
- § 1203(b)(7)** Willful misuse of the provisions of § 6103 of the I.R.C. of 1986 for the purpose of concealing information from a Congressional inquiry.
- § 1203(b)(8)** Willful failure to file any tax return required under the I.R.C. of 1986 on or before the date prescribed therefore (including any extensions), unless such failure is due to reasonable cause and not to willful neglect.
- § 1203(b)(9)** Willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not willful neglect.
- § 1203(b)(10)** Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

⁶ 29 U.S.C. §§ 701-797 (1994).

⁷ 42 U.S.C. §§ 12101 et seq. (1994).

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Appendix VI

Internal Revenue Service Commissioner's Complaint Processing &
Analysis Group's Response to the Draft Report

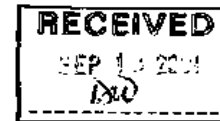
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TIGTA IG:A:1SP
IRS CCPAG

0002
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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224



SEP 10 2001

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT
(HEADQUARTERS OPERATIONS AND EXEMPT
ORGANIZATIONS PROGRAMS)

FROM: Stephen Whitlock *[Signature]*
Director, Commissioner's Complaint Processing and Analysis
Group

SUBJECT: Draft Audit Report - Improvements Should Be Made to Better
Control and Report Internal Revenue Service Restructuring and
Reform Act of 1998 Section 1203 Information (Audit
#200010045)

Thank you for the opportunity to comment on the above referenced draft audit report. I agree that we must properly control Section 1203 complaints from receipt through final disposition. I appreciate the courtesy the audit team extended in sharing information about the problems they found, which has allowed us to correct them more quickly. We have determined the problems were related to record keeping, and that we did not overlook any potential misconduct issues. I separately provided a status report on each of the complaints where the audit team found a problem in accounting for the actions we took in response to those complaints.

The processes and systems for controlling Section 1203 complaints evolved as the IRS and TIGTA gained experience in implementing the law. As the IRS and TIGTA recognized problems, we modified our processes to improve accountability and control. For example, some of the cases in the audit sample predate the decision to send all TIGTA Complaint Referral Memoranda (Forms 2070 and 2070A) through CCPAG. The current processes correct the deficiencies we and the audit team identified.

In summarizing the problems found during the audit, the report does not adequately distinguish between complaints that could not be located and those where one of the databases did not contain current information. The databases did not match because of data entry delays, data entry errors, and miscommunication among those responsible for sharing information. Those problems are much less serious than complaints that we could not locate and that we could not assure had been properly disposed of (as I noted above, all have been reviewed and were properly disposed of).

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The discussion at page 7 of the draft mixes the two issues, but the following pages discuss the issues separately. As a result, the summary information overstates the seriousness of the problems identified. I suggest you separate the summary information on page 7 into two distinct projections of the potential scope of the problems.

The draft report points out inconsistencies in the databases IRS and TIGTA used to track actions on Section 1203 complaints. However, classification of an allegation of misconduct as a potential Section 1203 allegation is not a purely objective determination. The IRS and TIGTA evaluate each allegation to determine whether the facts alleged, if proven, could be an act of misconduct and, if so, whether the misconduct could be a violation of Section 1203. This subjective element in evaluating allegations makes it difficult, and ultimately not productive, for TIGTA and IRS to reconcile the numbers in various categories in each database. The IRS and TIGTA have agreed that the Automated Labor and Employee Relations Tracking System (ALERTS) data provide the best insight into the number and nature of Section 1203 allegations. We also agreed we will use the Executive Correspondence Management System (ECMS) and the TIGTA information system data to ensure TIGTA and IRS properly control the allegations from receipt through final disposition, regardless of how they are classified.

The following is our response to the two recommendations directed to the IRS CCPAG and TIGTA office of investigations.

Recommendation #1:

IRS CCPAG and TIGTA Office of Investigations management should locate and resolve the 9 missing complaints and correct the status for the 22 complaints that were not updated.

Assessment of Cause:

We have provided separately specific information on the disposition of the 9 complaints that could not be located. In general, we found the allegations had been appropriately disposed of, but information was not recorded in the appropriate database. Five were frivolous allegations. The other four were reviewed and found not substantiated. As case tracking and management procedures have evolved, we corrected the weaknesses that made it difficult to locate these cases.

Of the 22 cases where a database contained incorrect information, three involved IRS databases. Two of the three are attributable to tracking and management procedures that we have since corrected. The third case involves a delay in updating the status of a case in ALERTS. All three IRS systems show the current case status.

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Corrective Action:

We worked with TIGTA Investigations to locate and resolve the remaining allegations that could not be located and updated the computer database status for the complaints in the incorrect status. Information about the individual cases was provided separately to TIGTA.

Implementation Date:

August 6, 2001

Responsible Official:

Director, Commissioner's Complaint Processing & Analysis Group

Recommendation #2:

IRS CCPAG and TIGTA Office of Investigations management should develop a process to better control §1203 complaints. The process should include:

- Using a transmittal form to transfer complaints between the IRS and the TIGTA.
- Acknowledging receipt (via transmittal form) of the complaint by the receiving office (for complaints transferred between the IRS and the TIGTA).
- Following up with the receiving office if receipt of the complaint is not acknowledged office (for complaints transferred between the IRS and the TIGTA).
- Following up with the receiving office to ensure the complaint was received office (for complaints transferred within the IRS).
- Updating the complaint status on all relevant computer databases when complaints are transferred or closed.
- Exploring the feasibility of capturing a unique complaint number on the IRS and TIGTA databases.

Assessment of Cause:

Processes within IRS and TIGTA have evolved as new organizations gained experience implementing a new program. The features described in the recommendation are already part of our processes.

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Corrective Action:

We use the electronic features of the Executive Correspondence and Management System to control transferred cases within IRS, and we use a manual control (Form 3210) to transfer cases outside of IRS. Both systems provide a verification of receipt, a trail of actions taken on the case, and a means to follow-up to ensure the receiving office actually has possession of the case.

- Allegations referred to IRS Business Units are monitored on the Executive Correspondence and Management System. When action is completed, the Business Unit sends the TIGTA Complaint Referral Memorandum (Form 2070) to the TIGTA, with information on the action taken. A copy is also provided to CCPAG, which is responsible for recording the disposition of the allegation on the Executive Correspondence and Management System. CCPAG will not close the case without a copy of the Form 2070.
- We provide status information to TIGTA so that the TIGTA database can be updated.
- We have explored with TIGTA the feasibility of a common complaint number, and concluded it is not feasible without a common information system.

Implementation Date:

August 6, 2001

Responsible Official:

Director, Commissioner's Complaint Processing & Analysis Group

Please contact me at (202) 622-6363 or Stu Silhol at (202) 622-7263 if you have any questions.

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Section 1203 Information**

Appendix VII

**Treasury Inspector General for Tax Administration Office of Investigations'
Response to the Draft Report**



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20230

September 21, 2001

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Robert J. Cortes *Robert J. Cortes*
Deputy Inspector General for Investigations

SUBJECT: Draft Audit Report – Improvements Should be Made to Better Control and Report Internal Revenue Service (IRS) Restructuring And Reform Act of 1998 (RRA 98) Section 1203 Information

Thank you for the opportunity to review and comment on your draft report and recommendations regarding our handling and reporting of Section (§) 1203 information. We take the review and appropriate handling of all complaints referred to the Treasury Inspector General for Tax Administration (TIGTA) very seriously.

The overall objective of this audit was to determine if RRA 98 § 1203 complaints were properly controlled by the IRS and TIGTA and if § 1203 complaint information was accurately reported in the Semiannual Report to the Congress.

Your report reflects that at the time of the review, IRS and TIGTA management collectively could not locate nine of the 173 sampled § 1203 complaints, and that IRS and/or TIGTA management information systems did not contain current information for 22 of the 173 sampled § 1203 complaints. Also, you identified 28 allegations outside the sample where the § 1203 violation code had been removed from the Management Information System (MIS) which resulted in inconsistent, but not necessarily inaccurate, reporting in the Semiannual Report to the Congress. Lastly, you identified two required § 1203 items that were allegedly reported inaccurately in a Fiscal Year (FY) 2000 TIGTA Semiannual Report to the Congress and five items not required to be reported that were apparently overstated in the two FY 2000 semiannual reports.

You reported that either the IRS or TIGTA could not locate nine § 1203 complaints for review by your staff. We determined that six of those nine complaints belonged to TIGTA. We have since located four of the six complaint files and recreated the two remaining complaints from information contained in our MIS, and forwarded the complaint information to the IRS for processing.

Of the 22 complaints that did not have current information in the respective databases, 19 belonged to TIGTA. We have updated our MIS for 16 of the 19 complaints to their

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most current status, e.g., 11 complaints were closed, two complaints were changed to "information only", two complaints were changed to "Referred for Action", and one complaint was changed to "Associate with an Ongoing Investigation". The three remaining complaints are accurately represented in our database. The database entries are consistent with the information reported to us and contained in our files.

In your audit you identified 28 § 1203 complaints that were removed from the MIS "in error". As we previously advised your staff, prior to the June 2000 version of the Special Agent Handbook, staff members in the Complaint Management Division (CMD) reviewed all § 1203 allegations to determine whether there was an apparent basis for a § 1203 violation code in our MIS. As a matter of policy, if it was subsequently determined that if there was no basis, the § 1203 violation code was removed from the individual record. Around June 2000, a decision was made by Office of Investigations management, for data consistency of reporting §1203 information in the Semiannual Report to the Congress and other TIGTA documents, that we would not take the § 1203 violation code out of our MIS once it had been entered. The 28 complaints mentioned in your audit report that had the § 1203 violation code removed did not meet the criteria to have been labeled a § 1203, and, therefore the code had been removed in accordance with governing policy at the time.

Lastly, you identified two required § 1203 items that were reported incorrectly in a FY 2000 TIGTA Semiannual Report to the Congress and five items not required to be reported that were inadvertently overstated in the two FY 2000 Semiannual reports. The two required § 1203 items, the IRS provides TIGTA with the termination and mitigation statistics. For the items that were overstated, we failed to use standard criteria when extracting the data.

Our comments on the recommendations are as follows:

IDENTITY OF RECOMMENDATION #1

The IRS Commissioner's Complaint Processing and Analysis Group (CCPAG) and TIGTA Office of Investigations management should locate and complete necessary actions for the remaining RRA § 1203 complaints that could not be located and should correct the status for the remaining § 1203 complaints where the information was not current.

ASSESSMENT OF CAUSE

At the time of the audit review, some of the complaint files were not in their proper location and could not be retrieved for review by the audit staff. For 16 of the 19 complaints, MIS did not contain the most current status information.

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CORRECTIVE ACTIONS

Prior to the issuance of this draft report, TIGTA Investigations found four of the six misplaced complaint files. Two complaint files that were not located were recreated from information contained in the MIS and reissued to the IRS for appropriate action.

New procedures are being implemented regarding release of complaint files to personnel outside of CMD. Also, a review of CMD's complaint file inventory will be undertaken in the next year to verify that all complaint files are accounted for.

For the 19 complaints that did not have current information in the MIS, 16 complaints had not been updated timely. Two complaints were closed based on information received from the IRS and TIGTA was not notified that the IRS had reopened the complaint. One complaint was still in an open status because the TIGTA Field Division had not received the closing documents from the IRS. The Field Division has since received those documents and closed the complaint.

We have updated our database for 17 of the 19 complaints to their most current status. For the two reopened complaints, we will not change our closed status.

TIGTA Office of Investigations management will be advised via memorandum of the importance of having current information in the Investigations database.

IMPLEMENTATION DATE

April 1, 2002

RESPONSIBLE OFFICIAL

Assistant Inspector General for Investigations (AIGI)

CORRECTIVE ACTION MONITORING PLAN

The AIGI will verify that TIGTA OI management has been informed, via memorandum, of the importance of current information in the MIS database and that complaint files are available for review.

IDENTITY OF RECOMMENATION #2

IRS CCPAG and TIGTA Office of Investigations management should develop a process to better control § 1203 complaints. This process should include:

- ◆ Using a transmittal form to transfer complaints between the IRS and the TIGTA.
- ◆ Acknowledging receipt (via transmittal form) of the complaint by the receiving office (for complaints transferred between the IRS and the TIGTA).

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- ◆ Following up with the receiving office if receipt of the complaint is not acknowledged (for complaints transferred between the IRS and the TIGTA).
- ◆ Following up with the receiving office to ensure the complaint was received (for complaints transferred within IRS).
- ◆ Updating the complaint status on all relevant computer databases when complaints are transferred or closed.
- ◆ Exploring the feasibility of capturing a unique complaint number on IRS and TIGTA databases.

ASSESSMENT OF CAUSE

Section 1203 complaint files were not always monitored to assure that the IRS had received the complaints and the MIS had not been updated timely to reflect the most current status of the complaints.

CORRECTIVE ACTIONS

Currently, CMD is using the Document Transmittal Form 3210 to send complaints to the IRS. The Special Agents In Charge (SAC's) may use the Form 3210 or may use the 2070 as their receipt. The SAC's and CMD will be advised, via memorandum, of their responsibilities to verify receipt of any §1203 complaints that are forwarded to IRS when it appears the receipt has not returned signed by IRS. Also, the SAC's and CMD will be advised of the importance of current and accurate information in the MIS.

The MIS is not set up to produce unique numbers for certain types of complaints. A field within the complaint screen is available to specifically capture an IRS complaint number if applicable.

IMPLEMENTATION DATE

December 1, 2001

RESPONSIBLE OFFICIAL

Assistant Inspector General for Investigations (AIGI)

CORRECTIVE ACTION MONITORING PLAN

A memorandum will be issued to the appropriate Investigations personnel informing them of the audit findings and their responsibilities in the referral, acknowledged receipt by the IRS and final resolution of § 1203 complaints and also of having current and accurate § 1203 information in the MIS.

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IDENTITY OF RECOMMENDATION #3

TIGTA Office of Investigations management should develop a consistent method for identifying the number of § 1203 allegations received for reporting in the TIGTA Semiannual Report to the Congress.

ASSESSMENT OF CAUSE

Section 1203 violation codes were removed after the complaint had been entered into the MIS as a § 1203 complaint, per governing TIGTA guidelines.

CORRECTIVE ACTIONS

Notification to Investigations personnel that once a § 1203 complaint is entered into the MIS, the violation code will only be removed if management has determined that the § 1203 violation code was placed in error.

IMPLEMENTATION DATE

December 1, 2001

RESPONSIBLE OFFICIAL

Assistant Inspector General for Investigations (AIGI)

CORRECTIVE ACTION MONITORING PLAN

AIGI will ensure that Investigations personnel are notified of their responsibilities for accurate information in the MIS database and that § 1203 violation codes should not be removed unless a manager has determined it was placed in error.

IDENTITY OF RECOMMENDATION #4

TIGTA Office of Investigations management should ensure that the general § 1203 information is verified before it is included in the TIGTA Semiannual Report to the Congress.

ASSESSMENT OF CAUSE

Different criteria were used when extracting the numbers for the March 2000 Semiannual Report to the Congress.

CORRECTIVE ACTIONS

Since the publication of the March 2000 Semiannual report, standard criteria have been developed to extract the § 1203 numbers. Independent review of the information will be conducted prior to the release of the information.

IMPLEMENTATION DATE

September 21, 2001

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RESPONSIBLE OFFICIAL
Deputy Inspector General for Investigations

CORRECTIVE ACTION MONITORING PLAN
AIGI will ensure that the § 1203 information has been reviewed prior to release in the Semiannual Report.

IDENTITY OF RECOMMENDATION #5
The TIGTA Office of Investigations should consider reporting in the Semiannual Report to the Congress the number of employees who retire or resign in lieu of termination under § 1203, the number of employees who are removed during their probationary period due to a § 1203 violation, the number of employees whose charge of § 1203 misconduct (and subsequent termination) is reversed through an appeal, and the number of § 1203 complaints received and investigated within the IRS that do not require TIGTA investigation.

ASSESSMENT OF CAUSE
Not required to report this type information under RRA 98, § 1203.

CORRECTIVE ACTIONS
Although the IRS is not required to report this information to us under RRA 98, § 1203, we will consider your recommendations for future Semiannual Reports.

IMPLEMENTATION DATE
December 1, 2001

RESPONSIBLE OFFICIAL
Deputy Inspector General for Investigations

CORRECTIVE ACTION MONITORING PLAN
N/A