

**Whistleblower Program
(Internal Revenue Code Section 7623)**

Fiscal Year 2014

Report to the Congress

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Whistleblower Program
(Internal Revenue Code Section 7623)
FY 2014 Report to the Congress

I. Executive Summary

The Tax Relief and Health Care Act of 2006 (the Act) enacted significant changes in the IRS award program for whistleblowers. For information provided to the IRS after December 19, 2006, new section 7623(b) of the Internal Revenue Code (the Code) generally requires the IRS to pay awards if information an individual provides substantially contributes to the collection of tax, penalties, interest, and other amounts when the amounts in dispute are more than \$2,000,000. The law sets award ranges based on percentages of the collected proceeds, and established a Whistleblower Office within the IRS to administer those awards.

The primary purpose of the Act was to encourage people with knowledge of significant tax noncompliance to provide that information to the IRS. The IRS receives submissions from whistleblowers, many of whom claim to have inside knowledge of the transactions they are reporting. They often provide extensive documentation to support their claims. The IRS is building on the progress already made in implementing the law, while remaining mindful of the need to protect taxpayer rights. Goals for the future included expanding the program's reach and improving communications with existing and potential whistleblowers.

The Secretary of the Treasury must conduct an annual study and report to Congress on the use of section 7623 and the results obtained, and include any legislative or administrative recommendations for section 7623 and its application (section 406(c) of the Act). This report discusses program activities for Fiscal Year (FY) 2014. It includes a review of the law and regulations applicable to whistleblower awards, changes made in program administration since the Act, a description of internal and external program guidance, administrative priorities, and data on awards paid. It also reports on continuing review of the operating guidelines and procedures of the Whistleblower Office to improve the timeliness and quality of decisions as the Service evaluates and acts on whistleblower information. This comprehensive review will also ensure more effective use of the Whistleblower Office's resources.

The IRS cannot foresee with any certainty which whistleblower claims will result in collected proceeds, or whether a whistleblower's estimate of the potential tax adjustments are accurate. During FY 2014, the Whistleblower Office received more claim submissions than in any other year. The total claims received in FY 2014 were 14,365, an increase of 3,845 compared to FY 2013.

The IRS pays awards from collected proceeds which result from an audit or investigation. Payments are not made until the taxpayer has exhausted all appeal rights and the statutory period for the filing of a claim for refund has expired, or been waived by the taxpayer. Therefore, typically the IRS does not make payments for five to seven years after the whistleblower has filed a claim. The IRS paid the first awards under the

2006 Act in FY 2011, and has continued to do so since then. Most of the awards paid during FY 2014 resulted from claims filed under the prior law.

In FY 2014, the IRS made 101 awards totaling \$52,281,628. However, reductions in expenditures required by sequestration reduced the whistleblower award payments in FY 2014 by \$3,764,722. The total award amount, before sequestration, represented 16.9% of the total amount IRS collected as a result of whistleblowers' claims.

II. Program History

A. Prior Law and Policy

The IRS has had the authority to pay awards to whistleblowers for many years. What is now section 7623(a)¹ of the Code has its origins in legislation Congress enacted in 1867. The original law provided the Secretary with the authority “to pay such sums as he deems necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same.” Before 1996, the IRS made payments from appropriated funds. In 1996, section 1209 of the Taxpayer Bill of Rights 2 (P.L. 104-168) expanded the purposes for which the IRS may pay awards, adding “detecting underpayments of tax” as a basis for making an award and changed the source of funds from IRS operating funds to proceeds of amounts collected from the taxpayer (other than interest).²

Before the 2006 amendments to section 7623, awards to whistleblowers were discretionary, and IRS policy determined the amount.³ The policy provided a framework for assessing the contribution of the information to the collection of proceeds from a taxpayer, and allowed for awards of 1 percent, 10 percent, or 15 percent of proceeds. The published policy set a cap on awards at \$10,000,000, but the IRS waived this cap from time to time under “special agreements” with a whistleblower.

The Internal Revenue Manual (IRM) provided several grounds for rejecting a claim for award, including participation in the evasion scheme that was the subject of the information the whistleblower provided. Other common reasons for rejecting claims included:

¹ The 2006 amendments re-designated the prior Internal Revenue Code (IRC) section 7623 as section 7623(a), added new provisions as section 7623(b), and included program administration requirements that were not incorporated into the Internal Revenue Code. The appendix to this report reprints section 7623, as amended, as well as additional provisions in the Act that Congress did not incorporate into the Code.

² The IRS has separate authority to pay informant expenses from appropriated funds available for confidential criminal investigation expenditures. The IRS makes those payments under authorities delegated to Criminal Investigation and they are not within the scope of the Whistleblower Office or this report to Congress.

³ Regulations implementing what is now section 7623(a) appear at Code of Federal Regulations Title 26, section 301.7623-1. The last version of the policy issued prior to the 2006 amendments was published in 2004, as Policy Statement P-4-27. The policy was revised in FY 2010, through revisions of the Internal Revenue Manual that were described in the FY 2010 Annual Report. The FY 2010 Annual Report can be found at http://www.irs.gov/pub/whistleblower/annual_report_to_congress_fy_2010.pdf.

- The information provided was of no value.⁴
- The IRS already had the information or the information was available in public records.
- No collection of taxes and penalties existed from which the IRS could pay an award.

B. 2006 Amendments

The Tax Relief and Health Care Act of 2006 (section 406) (P.L. 109-432) created section 7623(b) of the Code. This section set a new framework for the consideration of whistleblower submissions and established the Whistleblower Office within the IRS to administer that framework. Operating at the direction of the Commissioner of the IRS, the Whistleblower Office coordinates with other divisions of the IRS, analyzes information submitted, and makes award determinations. The statute provides that the Whistleblower Office may investigate the claim itself or assign it to the appropriate IRS office for investigation. After an initial review, the Whistleblower Office assigns claims to the appropriate IRS office for investigation.

A whistleblower must meet several conditions to qualify for the section 7623(b) award program.⁵ To qualify for a whistleblower award, the information must:

- Relate to a tax noncompliance matter in which the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$2,000,000; and
- Relate to a taxpayer, and for individual taxpayers only, one whose gross income exceeds \$200,000 for at least one of the tax years in question.

If the information meets the above conditions and substantially contributes to an administrative or judicial action that results in the collection of tax, penalties, interest, additions to tax, or additional amounts, the IRS will pay an award of at least 15 percent, but not more than 30 percent of the collected proceeds resulting from the administrative or judicial action (including related actions). The award percentage decreases for cases based principally on information disclosed in certain public sources or when the whistleblower planned and initiated the actions that led to the underpayment of tax. Whistleblowers may appeal the Whistleblower Office's award determinations under section 7623(b) to the U.S. Tax Court.

⁴ The information might be of no value because it did not provide a sufficient basis for initiating an examination or investigation of the issue presented, or because the examination resulted in no change to the filed return.

⁵ If the submission does not meet the criteria for section 7623(b) consideration, the IRS may consider it for an award under the pre-Act discretionary authority (now section 7623(a) of the Code).

III. Program Developments

A. Program Guidance

On August 12, 2014, final regulations were published in the Federal Register.⁶ The final regulations added necessary clarification and provided additional guidance for whistleblower submissions under section 7623. Specifically, the regulations provide guidance on submitting information regarding tax underpayments or violations, filing claims for award, and the whistleblower administrative proceedings applicable to claims for award under section 7623. The regulations also provide guidance on the determination and payment of awards, and provide definitions of key terms used in section 7623. Finally, the regulations confirm that the director, officers, and employees of the Whistleblower Office are authorized to disclose return information to the extent necessary to conduct whistleblower administrative proceedings.

The final regulations made significant changes to the language in the proposed regulations, including a narrowed list of ineligible claimants, and additional clarification for the definition of “administrative action” and “proceeds based on.” In addition, the final regulations addressed additional award payments based on collected proceeds received after an award determination was made, and clarified the rules for reducing awards under section 7623(b)(2) and (3). The Deputy Commissioner for Services and Enforcement issued a memorandum on August 20, 2014, highlighting the value of whistleblower information, the importance of timely evaluation of that information, and the need to protect whistleblower and taxpayer rights.⁷

B. Program Operations

The Whistleblower Office evaluates the submissions it receives to determine whether the information offered may substantially contribute to the assessment or collection of unpaid taxes, penalties, interest, additions to tax and additional amounts. If an audit or investigation is conducted based on the information a whistleblower provides, the Whistleblower Office will determine whether an award is payable under either section 7623(a) or 7623(b) and the amount of any award.

In FY 2011, the Whistleblower Office paid the first claims under section 7623(b). By the end of FY 2014, eleven claims have been paid under the revised law, including two separate payments to one whistleblower. Under section 6103, tax return information is confidential, unless an exception applies. There is no exception in section 6103 that permits the publication of data on specific whistleblower claims. Also, under section 6103, the IRS may disclose information in aggregate form only if the data cannot be associated with, or otherwise identify a particular taxpayer. Summary data on awards paid, receipts, closures, and claim status appear in the appendices to this report.

⁶ The proposed regulations were published on December 18, 2012.

<https://www.federalregister.gov/articles/2014/08/12/2014-18858/awards-for-information-relating-to-detecting-underpayments-of-tax-or-violations-of-the-internal>

⁷ [http://www.irs.gov/pub/whistleblower/IRS%20Whistleblower%20Program%20Memorandum%20\(signed%20by%20DCSE\).pdf](http://www.irs.gov/pub/whistleblower/IRS%20Whistleblower%20Program%20Memorandum%20(signed%20by%20DCSE).pdf)

The number of payments made under the section 7623(b) program is expected to increase in FY 2015. As discussed, it typically takes five to seven years to analyze, investigate and/or audit, and collect proceeds. At each stage in the tax administration process, taxpayers have rights to challenge IRS findings, including administrative and judicial appeals.

C. Staffing

At the beginning of FY 2014, the Whistleblower Office staff of 40 included 17 senior analysts with decades of experience in a broad array of IRS compliance programs. In addition, the IRS Office of Chief Counsel has appointed a senior attorney to serve as Special Counsel to the Director of the Whistleblower Office. The Special Counsel provides legal advice to the Director and coordinates support provided by other Chief Counsel offices. At year end, the total staff of the Whistleblower Office was 43 (reflecting a net increase of 3 senior analysts).

The Whistleblower Office has seen steady and consistent growth from year to year in both staffing and claim submissions. As the Whistleblower Office implements the regulations issued in August 2014, the Deputy Commissioner, Services and Enforcement, directed a program review to ensure the resources committed to the Whistleblower Office and other IRS components to the whistleblower program are applied efficiently and effectively. This assessment is expected to be completed in FY 2015.

D. Outreach and Communications

The IRS has developed an outreach and communications plan to address outreach to both the public and IRS personnel on changes in the whistleblower program. It highlights the future goals of expanding the program's reach and improving communications with existing and potential whistleblowers. To the extent that statutory changes are needed to further improve the program, the IRS will work with Congress to support such changes. The plan's highlights include efforts to identify opportunities for improvement and potential barriers to change.

The Whistleblower Office maintains a page on the IRS Intranet to make information available to IRS personnel, and provides articles for internal newsletters and speakers for professional education events to reach employees who are most likely to deal with a whistleblower case. There is also a dedicated page on the public website, www.irs.gov,⁸ which contains information for the public about the purpose of the whistleblower program, how to make a submission, and what to expect after making a submission. The website also includes links to the final regulations and Form 211 for submitting a claim. Significant efforts have been made by the Whistleblower Office to reach out to the general public via certain social media sites in an effort to provide an awareness of the Whistleblower Office's purpose.

⁸ <http://www.irs.gov/uac/Whistleblower-Informant-Award>

The Whistleblower Office makes presentations to professional groups sharing program developments and in return obtains outside perspectives on the program. The presentations are made to professional groups involved in the representation of both taxpayers and whistleblowers, including Taxpayers Against Fraud and the American Bar Association Tax Section. The Whistleblower Office has also been consulted by other Federal agencies and the tax administration agencies of other nations, as they evaluate options for establishing their own whistleblower award programs.

IV. Administrative Priorities and Issues

The Whistleblower Office continues to work with the IRS Office of Chief Counsel and Treasury Department to develop appropriate administrative program guidance. Based on the Whistleblower Office's experiences in administering the whistleblower program since its formation in 2007, the IRS identified several areas it addressed through administrative guidance as well as other issues.

A. Administrative Priorities

1. Guidance

A top priority in FY 2014 was to update formal published guidance for section 7623. As is noted in the previous section, the IRS published final comprehensive regulations that implement section 7623, including the 2006 amendments to the statute. These final regulations became effective on August 12, 2014. The Whistleblower Office began the process of updating the Internal Revenue Manual to reflect the final regulations and is also updating its correspondence, policies, and procedures accordingly.

B. Other Issues of Interest

A number of additional issues exist in the administration of the whistleblower program.

- 1. Rules on access to and disclosure of taxpayer information could provide stronger protection for taxpayers.** A whistleblower can appeal any determination on an award under section 7623(b)(1), (2), or (3) of the Code to the Tax Court (section 7623(b)(4) of the Code). A meaningful right to appeal to the Tax Court requires disclosure to the whistleblower of the basis for the award determination, which often will include taxpayer information that is protected from disclosure under section 6103. Consistent with section 6103(h), the IRM and the final regulations provide for disclosure of taxpayer information by the IRS to the whistleblower if the whistleblower enters into a confidentiality agreement and agrees not to disclose the information other than as permitted in that agreement.

Since FY 2010, these Annual Reports have noted two concerns regarding the disclosure of taxpayer information to the whistleblower as part of an award determination. First, current law does not provide an effective sanction if the whistleblower discloses taxpayer information in violation of the confidentiality agreement and section 6103(h). Second, the whistleblower may, against the

wishes of the taxpayer, disclose the identity of the taxpayer in a Tax Court or other judicial proceeding. The taxpayer is not a party to any dispute between the IRS and a whistleblower over eligibility for or the amount of, an award under section 7623, but in the past, both pleadings and court decisions in these cases routinely included details about the taxpayer. This second concern was addressed in a revision to Tax Court Rule 345, which now requires that taxpayer information be masked in documents filed with the Court. However, release of information during discovery in Tax Court proceedings is not addressed in the new rules and has brought a new set of concerns.

In cases brought before the Tax Court, whistleblowers who challenge IRS decisions on their award claims continue to raise questions about the separate decisions made regarding the taxpayer's liability, and seek information through pre-trial discovery on those decisions. While the Tax Court has ruled in a few cases that its jurisdiction to consider whistleblower award claim appeals does not include the authority to order IRS action with respect to taxpayer liability, the scope of permitted discovery is still an open question. The ability of the IRS to successfully resist expansive or otherwise improper whistleblower discovery requests related to taxpayer liability issues is unclear and an area of concern. There appears to be no effective sanction, and no effective restraint, when a whistleblower obtains confidential taxpayer information in discovery and chooses to release that information to the public. It is fundamentally unfair to the taxpayer, whose issues with the IRS have been fully resolved, to have confidential information revealed in a situation where the taxpayer is not a party and has no interest—other than in the protection of its private taxpayer information. Since FY 2014, the President's Budget submission has included a legislative proposal to address this issue, by providing a sanction for disclosure of taxpayer information obtained from the IRS as part of the award claim process.

- 2. The law does not provide for whistleblower protection.** Unlike other laws that encourage whistleblowers to report information to the government, section 7623 does not prohibit retaliation against the whistleblower. When the whistleblower is an employee of the taxpayer, retaliation can take the form of a job-related action. In other cases, whistleblowers may face threats of physical harm or damage to economic interests. In such cases, whistleblowers reporting information under section 7623 may have recourse under state law, but Federal law does not appear to provide a remedy. Since FY 2014, the President's Budget submission has included a legislative proposal to provide whistleblowers with protection from retaliation.

The IRS, as a matter of policy and as an application of section 6103, has committed to protect a whistleblower's identity, including the fact that the IRS received whistleblower information in a particular case. This commitment is qualified; however, as the IRS tells whistleblowers it may identify them if they are an essential witness in a judicial proceeding or if ordered to do so by a court of competent jurisdiction. Despite the IRS's commitment to protect

whistleblower identities, litigation has highlighted the conflict between the IRS's commitment to whistleblowers and its obligations in civil discovery. Certain litigants have sought information on informant involvement in tax matters even in cases where the government did not identify the whistleblower as a potential witness at trial. The appropriate response to such a request should be to neither confirm nor deny informant involvement, because a truthful denial in some cases will allow individuals to draw a conclusion in other cases. The authority for this approach is premised in case law. An adverse ruling on a discovery request could open the door to fishing expeditions to identify whistleblower involvement and targeted requests to determine whether particular individuals made whistleblower submissions.

- 3. The Whistleblower Office has limited information about the extent of the whistleblower's contribution in some criminal cases.** In some criminal cases, information available to the Whistleblower Office on the extent of the whistleblower's contribution may be limited by grand jury secrecy rules. The Whistleblower Office is not allowed to review and consider grand jury information protected from disclosure under the Federal Rules of Criminal Procedure, unless an exception to the secrecy rules is granted, which is done on a case-by-case basis. Without that information, it may not be possible for the Whistleblower Office to independently assess the extent of the whistleblower's contribution when making a determination regarding an award under section 7623.

V. Appendices

Appendix A: Revised Section 7623 and other provisions of law

Revised 26 USC Section 7323

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 78 - DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter B - General Powers and Duties

Sec. 7623. Expenses of detection of underpayments and fraud, etc.

(a) In General- The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for -

(1) detecting underpayments of tax, or

(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts collected by reason of the information provided, and any amount so collected shall be available for such payments.

(b) Awards to Whistleblowers-

(1) IN GENERAL- If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION-

(A) IN GENERAL- In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION- Subparagraph (A) shall not apply if the information resulting in the

initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

(3) REDUCTION IN OR DENIAL OF AWARD- If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

(4) APPEAL OF AWARD DETERMINATION- Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

(5) APPLICATION OF THIS SUBSECTION- This subsection shall apply with respect to any action--

(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds \$200,000 for any taxable year subject to such action, and

(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$2,000,000.

(6) ADDITIONAL RULES-

(A) NO CONTRACT NECESSARY- No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

(B) REPRESENTATION- Any individual described in paragraph (1) or (2) may be represented by counsel.

(C) SUBMISSION OF INFORMATION- No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.

Other provisions of Section 406 of the Tax Relief and Health Care Act of 2006

(a)(2) ASSIGNMENT TO SPECIAL TRIAL JUDGES-

(A) IN GENERAL- Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking `and' at the end of paragraph (5), by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph:

(6) any proceeding under section 7623(b)(4), and'.

(B) CONFORMING AMENDMENT- Section 7443A(c) is amended by striking `or (5)' and inserting `(5), or (6)'.

(3) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES- Subsection (a) of section 62 (relating to general rule defining adjusted gross income) are amended by inserting after paragraph (20) the following new paragraph:

(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS- Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.'

(b) Whistleblower Office-

(1) IN GENERAL- Not later than the date which is 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the 'Whistleblower Office' which--

(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,

(B) shall analyze information received from any individual described in section 7623(b) of the Internal Revenue Code of 1986 and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office, and

(C) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.

(2) REQUEST FOR ASSISTANCE- The guidance issued under paragraph (1) shall specify that any assistance requested under paragraph (1)(C) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under paragraph (1)(A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

(c) Report by Secretary- The Secretary of the Treasury shall each year conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986, including--

(1) an analysis of the use of such section during the preceding year and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

(d) Effective Date- The amendments made by subsection (a) shall apply to information provided on or after the date of the enactment of this Act.

Appendix B: FY 2014 Whistleblower Program Statistical Results

Table 1: All Claims Received, by Fiscal Year of Receipt

The table below provides current and historical information on claims received, including the total number of claims received for each fiscal year and the number of those claims that are open. The table below provides information on claims recorded in the Whistleblower Office information system, by fiscal year of receipt. There are often multiple claims associated with a single whistleblower submission, because the submission identifies more than one taxpayer. The table includes the number of claims received each year, and the number of those claims that were open as of May 14, 2015. As a general rule, the number of claims represents the number of taxpayers identified in submissions, so that a submission identifying 100 taxpayers is counted as 100 claims.

In 2009, the Whistleblower Office began using a new information system, and began applying accounting for multiple taxpayers identified in a single whistleblower submission. This accounting for multiple taxpayers identified in a single submission has been followed each year since. The following table has been modified to provide a rolling five year schedule of claims received by fiscal year of receipt with all years prior to the most recent five being consolidated as one number.

All Claims Received, By Fiscal Year of Receipt⁹
(as of 05/14/15)

	Pre-2010 ¹⁰	2010	2011	2012	2013	2014	Total
Total Claims Received	11794	13220	8166	9493	10520	14365	67558
Claims Open	5125	6211	2016	3017	5101	8682	30152

⁹ The data presented in this table may not align completely with reported prior year data. As the IRS continues to work a claim and learns more about the characteristics of the claim, the case management information is updated. The data presented in this table is captured as of a certain date and is a snapshot in time. The data is dynamic and changes can occur after the date the data is presented.

¹⁰ Record keeping procedures for claims received prior to FY 2007 varied. Some of the data captured in the "Pre-2010" column includes data recorded in tracking systems used prior to 2009. Those systems did not consistently record information on submissions that identified multiple taxpayers, and some pre-2006 tracking systems were not automated. As a result, the Pre-2010 column does not include all claims submitted before 2010. It does, however, account for all currently open claims for those years.

Table 2: Fiscal Year 2014 Receipts, by Operating Division, All Claims

The table below provides data on all submissions and claims received in FY 2014. This table identifies the IRS operating divisions to which the claims are assigned for review and action, which provides more useful information on where the work is being done within the IRS. Matters involving taxpayers with assets of more than \$10 million are under the jurisdiction of the Large Business and International Division (LB&I), while matters involving businesses and individuals that do not meet that threshold are generally assigned to the Small Business/Self-Employed Division (SB/SE). These two operating divisions receive the vast majority of whistleblower claims. While the jurisdiction of the Tax Exempt and Government Entities Division (TE/GE) encompasses a wide range of taxpayers and tax issues, that division receives relatively few whistleblower submissions. A claim initially assigned to LB&I, SBSE or TE/GE may be referred to Criminal Investigation if development of the case by the civil operating division reveals a potential criminal violation. The Whistleblower Office also makes a limited number of direct referrals to Criminal Investigation, such as cases where the allegations relate to illegal source income or other matters where development by a civil operating division would be unnecessary or inappropriate.

The table includes data on whistleblower submissions and claims associated with those submissions. As a general rule, multiple claim numbers are assigned when the submission identifies multiple taxpayers. The table also identifies the claim type. Claims listed as 7623(b) appear to have the potential to exceed the \$2 million threshold that defines 7623(b) claims in the law, with all others classified as 7623(a) claims.

**Fiscal Year 2014 Receipts, by Operating Division
All Claims¹¹**

Operating Division		Claim Type		Grand Total
		7623(a)	7623(b)	
CI	Submissions	27	42	69
	Claims	31	357	388
LB&I	Submissions	228	134	362
	Claims	1106	881	1987
SBSE	Submissions	3219	138	3357
	Claims	10437	976	11413
TEGE	Submissions	200	24	224
	Claims	347	44	391
Not Specified ¹²	Submissions	140	14	154
	Claims	162	24	186
Total Submissions		3814	352	4166
Total Claims		12083	2282	14365

¹¹ In previous annual reports, the IRS reported only the number of claims received that were designated as potential 7623(b) claims—those that appeared to have the potential to meet the \$2 million amount in dispute threshold. The designation of a claim as a “potential 7623(b) claim” should not be treated as final because it requires speculation, and is contingent on the results of IRS actions that will often not be known for years.

¹² The operating division is not specified for some claims because there may be more than one operating division with responsibility for issues identified in the submission.

Table 3: Fiscal Year 2014 Closures, by Fiscal Year of Receipt, All Claims

Table 3 identifies claims closed in FY 2014, including the year the IRS received the claim and the reason for closure. As with Table 1, pre-2007 receipts are consolidated. Arraying the data by fiscal year of claim receipt shows that the largest number of award paid in full cases was for claims received in FY 2011, consistent with the notice provided to whistleblowers that awards are typically not paid until several years after receipt of the submission. Claims received in FY 2014 and the prior year accounted for 80% of closures. The most common reasons for denial were non-specific allegations, issues that were below the threshold for IRS action, and allegations that did not identify a tax issue.

In the summer of FY 2012, the Whistleblower Office modified its information system to capture additional information on the reasons for closing claims. The table below reports the applicable reason for each claim that closed in FY 2014. For all claims other than those listed as “award paid in full,” the claim was denied.

- There are sometimes multiple reasons for closing a claim, such as limited time remaining on the applicable statute of limitations and insufficient resources to pursue the matter because of higher priority work in the unit to which the claim is assigned. In those cases, one reason is noted in the automated claim record based on the facts and circumstances presented.
- When a submission identifies multiple taxpayers, different closing reasons could be applicable to different taxpayers identified in the same submission, based on the results of IRS actions regarding each taxpayer. There may be an award paid with respect to one taxpayer, and a “no change” result with respect to another.
- The closing reasons distinguish between examinations that find no additional taxpayer liability, and those in which a liability was found on issues other than those identified by the whistleblower. Awards are paid if the information provided by the whistleblower is the basis for assessment and collection of tax. When the information provided by the whistleblower has no relevance to the assessments, the claim is denied and the “Examination Result on Whistleblower Issues Was ‘No Change’” closing reason applies.

Reasons for Fiscal Year 2014 Closures, All Claims

Reason	Fiscal Year of Claim Receipt									Total
	Pre-2007	2007	2008	2009	2010	2011	2012	2013	2014	
Award Paid in Full in 2014 ¹³	59	9	18	33	27	89	3	-	-	238
Allegations Unclear/Non Specific	1	-	2	8	1	3	33	276	190	514
Issues Below Threshold for IRS Action	-	1	1	2	2	6	38	237	375	662
Information Already Known	1	1	74	6	2	10	8	167	2	271
Lack of Resources/Other Priorities	-	-	-	3	7	14	10	40	4	78
Examination Result Was "No Change"	11	-	8	17	34	27	19	8	-	124
Examination Result on Whistleblower Issues Was "No Change"	-	1	21	6	3	7	19	-	-	57
No Collected Proceeds	36	-	1	13	6	5	4	11	2	78
No Tax Issue	1	1	1	16	33	22	37	938	1535	2584
Insufficient Time Remaining on Statute of Limitations	-	-	2	6	9	13	42	46	13	131
Statute of Limitations Expired Before Whistleblower Information Was Submitted	-	-	1	3	4	20	21	50	64	163
Closed - Other ¹⁴	3	2	13	33	37	189	116	423	804	1620
Total	112	15	142	146	165	405	350	2196	2,989	6520

¹³ For this table, "Awards Paid in Full" reflects the number of claims (individual taxpayer matters) closed resulting in payments to whistleblowers. In some cases, these payments reflect collected proceeds from multiple taxpayers, each of which is reflected as a closed claim with an award paid in this table. However, Table 6 reports as "awards paid" the number of whistleblower payments. For example, a whistleblower submission could result in collected proceeds from five taxpayers, with a single award payment to the whistleblower. Table 3 would reflect five "awards paid in full" claims for that submission, while Table 6 records one award payment.

¹⁴ The data in this table was collected during a period of transition from old definitions to new ones. When the Whistleblower Office found that the "Closed-Other" closing reason was used more often than expected, additional training and guidance was provided to properly identify and apply the correct closing reason definitions. The Whistleblower Office will continue to examine trends in closing reasons, and may adjust definitions or add definitions to provide a more complete picture of actions taken on whistleblower information.

Table 4: Status of Open Section 7623(b) Claims from All Years

Table 4 provides current status information for claims that were designated as potential 7623(b) claims¹⁵. The Whistleblower Office uses information provided by the whistleblower to determine whether a submission has the potential to result in an amount in dispute exceeding the \$2,000,000 threshold for section 7623(b). The designation as potential 7623(b) claims should not be treated as final because it requires speculation on actions that can take years to complete. Potential 7623(b) claims are identified during initial review of submissions by the Whistleblower Office, and then forwarded to subject matter experts (SMEs) in the IRS operating divisions. The SME then determines whether the whistleblower information will be provided to field offices for examination or investigation, taking into consideration the quality of the information provided, IRS enforcement priorities and, in some cases, legal limitations on the use of the information submitted. Once information is provided to a field office, it may be incorporated into an on-going examination or investigation, a new examination or investigation may be started, or it may be deferred or declined in favor of higher priority cases or issues. Upon completion of an examination or investigation, or after a decision by a SME or a field office not to act on the information provided by the whistleblower, the case is returned to the Whistleblower Office. The Whistleblower Office determines whether a whistleblower is eligible for an award and, if so, the amount of the award.

The tables below include a category called “Whistleblower Office-Case Suspended.” Action on claims may be suspended for several reasons. These reasons include waiting for collection action after tax has been assessed, waiting for the taxpayer to exhaust or waive appeal rights, and waiting for action on related cases. A related case suspension would be appropriate when a whistleblower submission identifies multiple taxpayers, and the IRS decides to take action on some but not others. The declined cases would be suspended until the actions on other taxpayers are resolved.¹⁶ Another reason to suspend related cases would be that actions have been completed on some taxpayers, but the amount in dispute is below the \$2,000,000 threshold for section 7623(b). Suspending action to determine whether additional actions could push the aggregate amount in dispute over the threshold preserves the whistleblower’s potential Tax Court appeal right. Prior to the August 8, 2012, information system changes, the Whistleblower Office could not record the reason for suspension within the information system in a way that would permit statistical reporting. The information systems changes will now permit collection and reporting on this information going forward, but required over 20,000 record changes to update previously recorded claims with the new data fields. The Whistleblower Office is continuing to update records on the remaining 475 claims to reflect the reason for suspension, as the majority of these fields have been updated.

¹⁵ The Whistleblower Office cannot report similar information on 7623(a) claims (those that do not appear to involve allegations of an amount in dispute of more than \$2 million) because record keeping on those claims is based on different workflows and processing. If further evaluation of claim initially designated as a 7623(a) claim suggests that the amount in dispute may exceed \$2 million, the claim is re-designated as a 7623(b) claim and its status would be reported on Table 4.

¹⁶ The data included in the “Whistleblower Office - Case Suspended for Reasons Other than the Suspense Categories Listed Below” and “Whistleblower Office - Case Suspended: Related Claims Still in Process” includes submissions which are suspended from closure until actions on other taxpayers are resolved with either the master or related claims.

Status of Open Section 7623(b) Claims from All Years¹⁷
(as of 05/14/15)

Current Status	Submissions	Taxpayers	Whistleblowers	Claim #s
Taxpayer has sought review by IRS Appeals	81	281	70	236
CI Initial Review Prior to Accepting for Investigation	8	57	7	57
Operating Division Field Examination	682	2632	500	2439
Operating Division Subject Matter Expert Review	47	145	39	139
Whistleblower Office - Admin Proceeding Preliminary Award Recommendation Letter	4	9	4	5
Whistleblower Office - Admin Proceeding Rejection/Denial	62	394	58	392
Whistleblower Office - Award Evaluation	11	80	10	79
Whistleblower Office - Case Suspended	42	503	35	475
Whistleblower Office - Case Suspended: OD Evaluating Bulk Claim Involving a Large Number of Taxpayers	19	4401	10	4386
Whistleblower Office - Case Suspended: Awaiting Collection Action	84	534	76	479
Whistleblower Office - Case Suspended: Whistleblower Litigation Regarding Award Determination	28	46	24	41
Whistleblower Office - Case Suspended Payment Received, Awaiting Expiration of Statute of Limitations on Taxpayer Claim for Refund	66	597	58	514
Whistleblower Office - Case Suspended: Related Claims Still in Process	305	3178	196	2957
Whistleblower Office - Case Suspended for Resolution of TEFRA Key Case	11	117	10	104
Whistleblower Office - Final Award Processing	2	2	2	2
Whistleblower Office - Reviewing Results of Field Action To Determine Whether There is Sufficient Information to Make an Award Decision	290	655	221	612
Whistleblower Office - Initial Review	31	89	25	89
Whistleblower Office - Rejection/ Denial Letters and Award Recommendation Memos Sent for Manager Approval	152	314	127	306
Whistleblower Office -Manager Approved Rejection/Denial Letters and Award Recommendation Memos	6	9	6	9
Whistleblower Office - PARL Approval Manager Approval for Preliminary Award Recommendation Letter	9	16	9	11
Whistleblower Office - Rejection/Denial Letter Pending	2	5	2	5
Total	1942	14064	1489	13337

¹⁷ The information system has been revised several times to add additional status information, and to reflect changes in definitions of claim status. For claims that were created prior to those revisions, individual records must be updated to reflect the changes, requiring manual updates to thousands of records. This work was expected to be complete in FY 2014. However, staff and system changes were not available for this work, and it was deferred to FY 2015. Table 4 does not yet reflect these changes. After these updates are completed, future reports will more accurately capture the current status of 7623(b) claims.

Table 5: Days in Current Status, Open Section 7623(b) Claims

Table 5 reflects the number of days in current status from the date that the claim cleared the previous status. For example, the time that a claim is in “Operating Division Field Examination” is measured from the date “Operating Division Subject Matter Expert Review was completed.” The data collection used to generate this data did not consider the possibility that a claim may not move through the process linearly. For example, the claim reported as “longest” in “Operating Division Subject Matter Expert” status was transferred for consideration of an examination after completion of a criminal investigation.

As previously discussed, the Whistleblower Office has significantly revised the information system to begin collecting data that will account for circumstances such as the return of a claim for further review. Changes were also made in the definition of the “Whistleblower Office-Award Evaluation” status, and four new “Whistleblower Office- Suspended” statuses were added to Table 5 similar to how the statuses were added to Table 4 above. The caution regarding the reliability of the designation of potential 7623(b) claims that applies to Table 4 also applies to Table 5.

Days in Current Status, Open Section 7623(b) Claims¹⁸
(as of 05/14/15)

Current Status	Average Days	Longest Days	Shortest Days
Taxpayer has sought review by IRS Appeals	419	1912	3
CI Initial Review Prior to Accepting for Investigation	395	492	3
Operating Division Field Examination	544	2344	-
Operating Division Subject Matter Expert Review	80	779	1
Whistleblower Office - Admin Proceeding Preliminary Award Recommendation Letter	3	7	1
Whistleblower Office - Admin Proceeding Rejection/Denial	17	97	-
Whistleblower Office - Award Evaluation	215	399	2
Whistleblower Office - Case Suspended for Reasons Other than the Suspense Categories Listed Below ¹⁹	400	1046	17
Whistleblower Office - Case Suspended: OD Evaluating Bulk Claim Involving a Large Number of Taxpayers	1034	1382	9
Whistleblower Office - Case Suspended: Awaiting Collection Action	269	1352	6
Whistleblower Office - Case Suspended: Whistleblower Litigation Regarding Award Determination	387	955	20
Whistleblower Office - Case Suspended Payment Received, Awaiting Expiration of Statute of Limitations on Taxpayer Claim for Refund	360	1263	3
Whistleblower Office - Case Suspended: Related Claims Still in Process	728	1890	3
Whistleblower Office - Case Suspended for Resolution of Tax Equity and Fiscal Responsibility Act Key Case	566	962	21
Whistleblower Office - Final Award Processing	218	218	218
Whistleblower Office - Reviewing Results of Field Action To Determine Whether There is Sufficient Information to Make an Award Decision	362	1148	-
Whistleblower Office - Initial Review ²⁰	85	673	-
Whistleblower Office - Rejection/ Denial Letters and Award Recommendation Memos Sent for Manager Approval	56	191	1
Whistleblower Office -Manager Approved Rejection/Denial Letters and Award Recommendation Memos	28	69	7
Whistleblower Office - Manager Approval for Preliminary Award Recommendation Letter	42	94	-
Whistleblower Office - Rejection/Denial Letter Pending	2	3	2

¹⁸ This table provides current status information for claims that were designated as potential 7623(b) claims. As is noted in connection with Table 4, the designation as potential 7623(b) claims should not be treated as final because it requires speculation on actions that can take years to complete. Further, for the same reasons as stated in connection with Table 4, comparable data on 7623(a) claims is not available. The information system has been revised several times to add additional status information, and to reflect changes in definitions of claim status. For claims that were created prior to those revisions, individual records must be updated to reflect the changes, requiring manual updates to thousands of records. This work was expected to be complete in FY 2014. However, staff and system changes were not available for this work, and it was deferred to FY 2015. Table 5 does not yet reflect these changes. After these updates are completed, future reports will more accurately capture the current time in status.

¹⁹ The data included in the "Whistleblower Office - Case Suspended for Reasons Other than the Suspense Categories Listed Below" includes submissions which are suspended from closure until actions on other taxpayers from either mater or related submissions are resolved.

²⁰ The data included in the "Whistleblower Office - Initial Review" includes submissions with complex issues, which may require additional information from the whistleblower prior to cross coordination with the various business operating divisions or subject matter expert coordination.

Table 6: Awards Paid, Fiscal Years 2010 to 2014

The table below provides current and historical information on claims paid. The number and amount of awards paid each year can vary significantly, especially when a small number of high-dollar claims are resolved in one year. In FY 2014, the IRS made 101 awards, totaling \$52,281,628 prior to sequestration. As in previous years, the awards paid were based on claims covered by the pre-2006 law. By the end of FY 2014, eleven claims have been paid under the revised law, including two separate payments to one whistleblower. These have not been segregated from other award payments to protect taxpayer and whistleblower privacy.

In April 2013, the Whistleblower Office issued a notice regarding the impact of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. This law required reductions in expenditures, also known as “sequestration,” starting March 1, 2013. As applied to payments under section 7623, the required reductions were 7.2 percent of the amount that would otherwise have been payable in FY 2014. Reductions totaling \$3,764,722 were applied to awards paid during FY 2014. The total award amount before reductions was \$52,281,628, representing 16.9% of total amounts collected. The table below includes data on awards paid and collections attributable to whistleblower information in those cases. The year in which an award is paid is generally not the year in which the collections occurred, because the IRS must wait until the taxpayer appeal rights have been waived or exhausted.

**Amounts Collected and Awards Paid under Section 7623
FY 2010-2014**

	2010	2011	2012	2013	2014
Awards Paid²¹	97	97	128	122	101
Collections over \$2,000,000	9	4	12	6	9
Total Amount of Awards Paid	\$18,746,327	\$8,008,430	\$125,355,799	\$53,054,302	\$52,281,628
Amounts Collected	\$464,695,459	\$48,047,500	\$592,498,294	\$367,042,420	\$309,990,568
Awards paid as a percentage of amounts collected.	4.0%	16.7%	21.2%	14.6%	16.9%

²¹ For this table, “awards paid” reflects the number of payments to whistleblowers. In some cases, these payments reflect collected proceeds from multiple taxpayers, each of which is reflected as a closed claim with an award paid in Table 3, which reports closing reason.