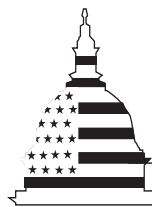


April 2000**TAX
ADMINISTRATION****IRS' Implementation
of the Restructuring
Act's Taxpayer
Protection and Rights
Provisions****G A O**

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

General Government Division

B-283953

April 21, 2000

The Honorable Bill Archer
Chairman, Committee on Ways and Means
House of Representatives

The Honorable Amo Houghton
Chairman, Subcommittee on Oversight
Committee on Ways and Means
House of Representatives

When Congress passed the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (Restructuring Act),¹ it signaled its strong concern that IRS was not affording taxpayers the protection and rights they deserved. As you requested, we are studying IRS' implementation of the Restructuring Act. We will issue separate reports covering various aspects of the implementation. This report describes the status of IRS' implementation of the taxpayer protection and rights provisions in title III of the act, which require IRS to treat taxpayers fairly. Also, this month, we are issuing a report on IRS' implementation of the personnel flexibility provisions in title I of the Restructuring Act, which are, in part, also intended to help IRS ensure that taxpayers are treated fairly.²

As agreed with your office, the objectives of this report are to (1) describe the status of IRS' implementation of the Restructuring Act's title III provisions and (2) determine what, if any, tax administration or other concerns IRS has identified in implementing these provisions. To fulfill these objectives, we interviewed IRS officials at the national, regional, and local levels with responsibility for implementing the provisions. We supplemented the information they provided with information from relevant documents, IRS' database on taxpayer service initiatives, and related studies by IRS and the Treasury Inspector General for Tax Administration (TIGTA). As agreed with your staff, we relied on information provided by IRS and did not assess the effectiveness of the taxpayer protection and rights provisions of the act. We did, however,

¹P.L.105-206 was enacted on July 22, 1998, and calls for broad reforms in such areas as the structure and management of IRS, electronic filing, and taxpayer protection and rights.

²Tax Administration: IRS' Implementation of the Restructuring Act's Personnel Flexibility Provisions (GAO/GGD-00-81, Apr. 2000).

check information from different sources for consistency. This report shows the status of IRS' implementation through January 31, 2000.

Results in Brief

IRS reported that, as of January 31, 2000, it had met the legal requirements to implement the taxpayer protection and rights provisions that had reached their effective dates, and was integrating these requirements into its daily work processes, procedures, and interactions with taxpayers. As part of its overall strategy to implement the Restructuring Act, IRS had developed action plans for each of the 72 taxpayer protection and rights provisions showing the steps IRS officials considered necessary to implement the provisions. IRS reported that it had completed these action plans for more than half the provisions and was continuing work to complete the others. Appendix I describes the status of IRS' implementation of each of the 72 taxpayer protection and rights provisions.³

In implementing the taxpayer protection and rights provisions, IRS has identified several tax administration concerns. Two provisions—one to grant tax relief to innocent spouses and another to increase taxpayers' rights during collection actions—increased IRS' workload far more than anticipated. Two other provisions—one requiring IRS to notify taxpayers before contacting third parties about their tax situation and one which eliminates the difference in interest rates on overpayments and underpayments for any period of mutual indebtedness—proved difficult to put into practice.

Background

Following a series of hearings on IRS' treatment of taxpayers, Congress concluded that IRS needed comprehensive reform. On July 22, 1998, Congress enacted the IRS Restructuring and Reform Act to better balance IRS' responsibility to collect taxes with its responsibility to protect the rights of taxpayers and serve the public. Among other things, the reforms included a change in the agency's mission statement and organizational structure aimed at providing top-quality service to taxpayers.

Under title III of the act, Congress expanded taxpayer protection and rights when dealing with IRS. Title III contains 72 provisions that are designed to help ensure that taxpayers are treated fairly by limiting certain IRS practices and specifying various steps IRS must take to help taxpayers meet their tax obligations without undue hardship. For example, the provisions allowed taxpayers, under certain circumstances, the right to collect civil damages from IRS up to \$1 million, the guaranteed availability

³Four of the 72 provisions have effective dates between July 1, 2000, and January 1, 2001.

of installment agreements, and notification in advance of IRS' contacting others regarding their tax situation. Most provisions were effective on or the day following enactment. (App. I provides a listing of the taxpayer protection and rights provisions in title III of the Restructuring Act.)

Scope and Methodology

To meet our objectives, we interviewed IRS officials with responsibility for implementing the provisions. This included senior executives at IRS' National Office in Washington, D.C., with responsibility for collection, examination, appeals, operations, training, and forms and publications. We also contacted IRS' National Taxpayer Advocate's Office, which helps taxpayers resolve problems with IRS, and the Chief Counsel's Office, which helps IRS staff correctly interpret laws. To obtain field perspectives, we interviewed IRS staff at the Southeast Regional Office, Georgia District Office, Atlanta Submission Processing Center, and Atlanta Customer Service Center who coordinated the Restructuring Act implementation efforts at those locations. As agreed with your staff, we relied on information provided by IRS and did not assess the effectiveness of the taxpayer protection and rights provisions of the act. We did, however, check information from different sources for consistency.

In addition, to determine the status of IRS' implementation of the provisions, we reviewed relevant documents, such as Restructuring Act executive steering committee minutes, staff training plans, and internal guidelines and memorandums. We reviewed the role that the National Resource Center (NRC), an IRS Intranet Web site, played in disseminating policy and guidance to staff. We used information from a database maintained by the office of IRS' Taxpayer Treatment and Service Improvement Program (TSI) to determine the status of the provisions' action plans. We did not independently verify the TSI database nor assess the adequacy or completeness of the various action plans; however, we reviewed related documents and discussed some of the provisions in detail with responsible IRS officials.

To determine what tax administration concerns IRS identified in implementing the provisions, we interviewed IRS officials and reviewed selected documentation, such as "provision folders" that contained policies, procedures, and other documentation related to the provisions. In addition, we reviewed available evaluations and studies conducted by IRS or TIGTA.

We conducted our work between October 1999 and February 2000 in accordance with generally accepted government auditing standards. On March 17, 2000, we provided a draft of this report to the IRS Commissioner

for comment. We received written comments on April 7, 2000, which are discussed at the end of this letter and reprinted in appendix II.

Status of IRS' Implementation of the Taxpayer Protection and Rights Provisions of the Restructuring Act

IRS reported that steps had been taken to implement the taxpayer protection and rights provisions that were in effect. As of January 31, 2000, IRS had completed actions to implement more than half of the provisions, and actions were continuing for the remaining provisions.

IRS Reports That Implementation Action Plans Have Been Completed for More Than Half the Provisions

For the provisions in effect, IRS said that it had completed the legal requirements to implement the law. According to IRS, action plans had been developed for all 72 of the provisions, and, as of January 31, 2000, IRS had completed the requirements for implementing 43 provisions and was continuing work to implement the remaining provisions. IRS' records showed that 25 of the 68 provisions then in effect had uncompleted actions.

The action plans showed the status of actions that IRS officials agreed were needed to implement the provisions. For example, in some instances, IRS had issued interim procedures so it could begin to address the needs of taxpayers who were affected by, or who were seeking assistance under, the law. The actions included updating taxpayer forms and publications; revising procedures, manuals, and regulations; conducting training; and making information systems changes.

Although IRS' records showed that all planned implementation steps had been completed for more than half the provisions, officials stated that continued oversight would be needed to ensure that staff were appropriately applying the procedures and that the procedures were producing appropriate outcomes for taxpayers. Consequently, according to these IRS officials, actions placed into effect to implement a provision may be subjected to review at any time, and they may be changed to address concerns or issues that may arise.

Appendix I summarizes the status of IRS' efforts to complete items in the provisions' action plans as of January 31, 2000, when all but 4 of the 72 title III provisions were at least partially in effect. It is important to recognize that some provisions have more than one part, and in some instances, the law specified different effective dates for each part.

Overall Restructuring Act Implementation Strategy Used to Integrate Provisions Into Daily Operations

IRS developed a detailed implementation strategy to manage the overall execution of the Restructuring Act, including the taxpayer protection and rights provisions. According to IRS, because of the high-profile nature of the act and the unusual number of provisions that were effective upon enactment, a substantial effort was required to implement the law. IRS' strategy for integrating the taxpayer protection and rights provisions into daily work processes, procedures, and interactions with taxpayers consisted of (1) assigning accountability, (2) designing a communications strategy, (3) developing a training plan, and (4) conducting reviews of new policies and procedures.

Assigning Accountability

In June 1998, the IRS Commissioner assigned accountability for the overall implementation of the Restructuring Act to the Chief Operations Officer, who in turn set up a cross-functional approach to manage the implementation process, which included the establishment of an executive steering committee and assignment of individual provisions to IRS executives who had lead responsibility for their implementation. The executive steering committee was initially chaired by the Deputy Chief Operations Officer and was comprised of senior IRS officials representing major functions, such as Collection and Examination, and offices such as Chief Counsel, National Taxpayer Advocate, and Corporate Education. The executive steering committee was established to provide continuous review of the act's implementation status and to resolve implementation issues as they arose. In addition to providing a forum for IRS officials to discuss implementation issues from an agencywide or functional perspective, the steering committee focused on individual provisions to ensure that issues and concerns about them were being properly managed.

The executives with lead responsibility for implementing specific provisions were to finalize the action plans for each provision assigned to them. Although each provision has only one owner who has overall responsibility for the provision, the actions pertaining to that provision may belong to many different IRS functions.

Staff from TSI worked with the executive steering committee and IRS executives who were the owners of specific provisions. Among other things, TSI's role was to help

- ensure that the set of actions for each provision would accomplish the implementation of the provision;
- identify critical interdependencies to ensure the proper sequencing of actions and provide an early indication of implementation problems;
- provide support to functional areas in resolving problems;

- prepare a biweekly status report for use by the executive steering committee; and
- ensure that requests for information services were included in appropriate plans and that the requests were designated as Restructuring Act requirements to ensure higher priority.

IRS field staff were also assigned as Restructuring Act coordinators to provide implementation assistance for staff in each district, region, and service center. The coordinators' primary responsibilities were to help ensure that field staff were aware of IRS' ongoing efforts to implement the Restructuring Act, assist in coordinating training and distributing policy and procedural guidance, and assist in obtaining answers to questions and concerns raised by staff.

Designing a Communications Strategy

Informing the staff about the tax law, policy, and procedural changes was an important part of IRS' Restructuring Act implementation according to IRS. To facilitate agencywide communication, IRS said it relied on interactive video training broadcasts, labor management relations professionals, and its NRC Intranet Web site as the primary means to disseminate information. In August 1998, the NRC Web site became operational to support the Restructuring Act's implementation by

- serving as a central repository of relevant policy and procedural guidance;
- providing a means for posting questions and answers on implementation concerns so that all staff would receive consistent information;
- showing the important memorandums, training, and questions about each provision; and
- providing a link to the TSI Web site that had up-to-date information on the provision action plans.

IRS did not have the technical infrastructure it needed to make the NRC Web site an effective communications medium. To do so would require that the field users have access to computers with IRS' Intranet capabilities, and many did not. In some locations that had computers, staff did not have access to IRS' Intranet or were unaware of the NRC Web site. The lack of access placed a substantial burden on local coordinators to use alternate means to provide information to the frontline staff who had to apply the procedures. According to IRS officials, this was not conducive to consistency in interpreting the policies and procedures. IRS learned of this problem and later used other means to supplement the NRC Intranet Web site to provide information to staff.

Developing a Training Plan

IRS officials told us that another key to the implementation of the Restructuring Act was training employees about how the new law would affect the agency in terms of impact on policies, procedures, and taxpayer interactions. Preliminary planning for training took place before the passage of the law to ensure that the training could be provided to employees in a timely manner following enactment. The IRS provision owners were responsible for ensuring that training classes were developed and courses delivered to all staff affected by the provisions.

Staff training was to be conducted in three phases. The initial phase was referred to as awareness training and consisted primarily of instructional television programs, group discussions, and memorandums to staff. The goal of this training was to help ensure that staff were aware of the changes in the law and IRS' policies and procedures. According to IRS, about 51,000 employees received phase-one training.

The second phase of training, which was conducted between May and September 1999, included traditional classroom training. An example of phase-two training was Customer Service's training on the provisions relating to due process, offers-in-compromise, third-party contact, liens and seizures, and innocent spouse provisions, for which 18,000 employees received 72,000 hours of training.

Phase-three training, which is to reinforce the earlier training, is to take place in fiscal year 2000. This training is expected to use traditional classroom methods.

Conducting Reviews of the Implementation of New Policies and Procedures

In fall 1999, IRS began conducting reviews of the staff's implementation of its new policies and procedures. This was to provide the executive steering committee and IRS managers with information on how field staff in IRS functions were actually applying selected provisions.

The results of the reviews were mixed. In some instances, staff found no implementation issues, while in other instances, staff did find issues that required corrective actions. The issues requiring corrective actions varied from statutory violations to a lack of adherence to internal procedures. According to IRS, corrective actions, which sometimes included additional guidance and training, were taken when warranted.

Tax Administration Concerns IRS Has Identified in Implementing the Taxpayer Protection and Rights Provisions

IRS identified several tax administration concerns in implementing the taxpayer protection and rights provisions. The most significant concerns involved two provisions that resulted in significant workload increases and two other provisions that were difficult to put into practice.

Some Tax Administration Concerns Resulted From Workload Increases

According to IRS officials, substantial increases in workload were attributable to taxpayers' claims under the provision relating to innocent spouse cases and the provision relating to due process through requests for administrative hearings before IRS takes enforcement actions, such as imposing a lien or levy.

Innocent Spouses' Relief From Joint and Several Liability

Under joint and several liability, spouses who file a joint tax return are each fully responsible for the accuracy of the return and for the full tax liability. This is true even though only one spouse may have earned the wages or income shown on the return. Section 3201 of Restructuring Act made it easier for innocent spouses to seek relief under certain circumstances. To illustrate, under certain circumstances, the provision allows a spouse to have a previously filed joint tax return recalculated to include only items allocable to that taxpayer. In general, the tax would be assessed as if the taxpayer had filed a separate tax return.

The IRS Commissioner has acknowledged that IRS was administratively unprepared to deal with the separation of single tax liability for spouses into multiple liabilities as mandated in the act. Thus, IRS had to establish manual processes and controls to deal with the requests, a measure requiring about 720 additional full-time-equivalent staff. As of December 31, 1999, IRS had received almost 57,000 relief requests from about 30,000 taxpayers, and in about 15 percent of them, IRS had reached a preliminary determination. IRS considered the remaining relief requests to be a significant backlog that would require, on average, between 4 staff hours and 22 staff hours per case to resolve, depending on complexity. IRS officials were concerned about the agency's ability to process all the cases in a timely manner.

Due Process in IRS Collections

Section 3401 of the Restructuring Act, effective on January 19, 1999, establishes procedures designed to ensure that taxpayers receive due process when IRS seeks to collect taxes by such means as levies. This section of the Restructuring Act required IRS to notify taxpayers in writing when a notice of federal tax lien has been filed or notice of intent to levy

has been given, informing them, among other things, of their right to an administrative hearing with an IRS Appeals officer. Additionally, if taxpayers exercised their appeal rights, IRS was required by law to suspend all collection activity until the claim was adjudicated.

In calendar year 1999, IRS' Appeals Division received approximately 7,000 appeal cases under this provision. According to Appeals Division officials, these cases represented a significant amount of additional work. IRS Appeals officials believed that many of the cases should have been completed by Collection staff. In this regard, Collection officials told us that when taxpayers wanted to appeal their cases, their frontline staff were sometimes reluctant to suggest alternatives, such as installment agreements, for paying the tax liabilities. The employee termination provisions of section 1203 of the Restructuring Act were viewed by some Collection staff as an opportunity for taxpayers and practitioners to make unwarranted allegations against employees who had exercised their enforcement authority appropriately.⁴ As a result, some Collection staff forwarded cases to Appeals upon the taxpayers' request rather than suggesting alternatives to avoid the perception that they were denying taxpayers their right to an appeal. To deal with any backlog of appeals, Collection officials have agreed to detail Collection staff to the Appeals Division to help process the cases.

Some Tax Administration Concerns Resulted From Provisions That Were Difficult to Put Into Practice

According to discussions with IRS officials, certain provisions of the Restructuring Act were difficult to put into practice. Among them were provisions relating to IRS contacts with third parties and the elimination of interest rate differences in overpayments and underpayments.

Third-Party Contact

Under prior law, IRS could contact persons other than the taxpayer to obtain information relating to either the determination or collection of a tax liability. The taxpayer was not necessarily informed about whom IRS had contacted. The Restructuring Act changed this by requiring IRS to give taxpayers reasonable notice that it might contact third parties for information to help determine the amount of tax owed or collect the tax

⁴Section 1203 of the Restructuring Act mandates that IRS terminate the employment of an IRS employee if there is a final administrative or judicial determination that the employee committed certain acts or omissions in the performance of official duties. There are 10 acts or omissions listed in this provision that require termination, including willful failure to obtain the required approval signature on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets.

liabilities.⁵ In addition, the provision requires IRS to maintain a list of the third parties contacted and provide that information periodically to the taxpayer.

The implementation of this provision has been difficult for IRS because of the need to make basic policy determinations, such as defining what is a “third-party contact,” what does “periodically” imply regarding providing taxpayers with a list of contacts, and how specific should the notice of contacts be. In addition, according to IRS officials, it took IRS a considerable amount of time and effort to transform its policy decisions into appropriate and practical guidance for its staff to use.

IRS issued interim guidance and conducted training to help the staff interpret the intent of the provision. However, IRS officials remain concerned that its field employees were still having difficulty in identifying third parties in some situations, such as when the taxpayer is a business organization. Unless these determinations are made correctly, a taxpayer’s rights can be violated.

Elimination of Interest Rate Differential

The Restructuring Act established a net interest rate of zero when interest is payable and allowable on equivalent amounts of overpayment and underpayment of any taxes that exist for any period of mutual indebtedness. According to IRS officials, administering this provision is an administrative challenge because it involves complex calculations that cannot currently be automated and therefore must be performed manually. Because the provision also applies to prior tax periods for which interest has already been computed under prior law, it is possible that large numbers of new refunds could be generated for previously settled tax accounts.

To help comply with the requirements, IRS has provided staff with a significant amount of training. For example, 15,000 hours of training were provided to 383 IRS employees—approximately an average of 40 hours per employee. Also, according to IRS Examination officials, from September 1999 through March 22, 2000, approximately 1,154 hours were used to process 37 net rate interest cases—about 31 hours per case.

In addition to providing additional training, IRS plans to perform quality checks of completed claims and, in the future, make system improvements

⁵The provision does not apply (1) if IRS determines that collection of tax would be in jeopardy or if such notice may involve reprisals against any person; (2) if there is any pending criminal investigation; or (3) if the taxpayer has authorized the contact.

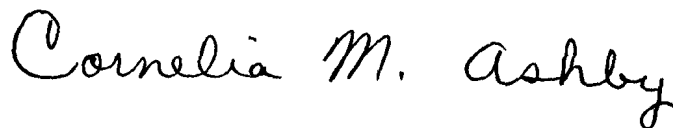
and develop its own software to automate the processing of taxpayers' claims.

Agency Comments

In written comments on a draft of this report, the Commissioner of Internal Revenue stated that the report provided a fair and balanced assessment of IRS' strategy to implement the taxpayer protection and rights provisions and recognized the many steps IRS had taken to manage the implementation process (see app. II for the letter). IRS also made a specific comment about the discussion in our draft on due process in collections. Our report indicated that Collection staff may have forwarded cases to Appeals for a due process review, when other collection alternatives existed, to prevent allegations of misconduct under section 1203 of the Restructuring Act. IRS noted that it believes that the connection is not quite so simple. Rather, the Commissioner said that before IRS' publication of additional guidance on January 11, 2000, many Collection staff did not believe they had an alternative to forwarding taxpayers' request for a due process hearing to Appeals. IRS also said that it had taken a number of additional steps to clarify which actions are considered to be violations under section 1203 and to emphasize that the appropriate exercise of enforcement authority is not prohibited.

As agreed with your office, unless you announce its contents earlier, we plan no further distribution of this report until 30 days from its date of issue. At that time, we will be sending copies to Senators William V. Roth, Jr., Chairman, and Daniel P. Moynihan, Ranking Minority Member, Senate Committee on Finance; Representatives Charles B. Rangel, Ranking Minority Member, House Committee on Ways and Means; William J. Coyne, Ranking Minority Member, Subcommittee on Oversight, House Committee on Ways and Means; the Honorable Lawrence H. Summers, Secretary of the Treasury; and the Honorable Charles O. Rossotti, Commissioner of Internal Revenue. We will also make copies available to others upon request.

If you have any questions, please call me or Charlie Daniel at (202) 512-9110. Key contributors to this report are acknowledged in appendix III.



Cornelia M. Ashby
Associate Director, Tax Policy
and Administration Issues

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Abbreviations

IRS	Internal Revenue Service
NRC	National Resource Center
TIGTA	Treasury Inspector General for Tax Administration
TSI	Taxpayer Treatment and Service Improvement

Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and Restructuring Act of 1998

Section	Effective date	Status ^a	General description
3001 Burden of Proof	7/23/98	Actions completed	Shifts general burden of proof to IRS when taxpayer meets procedural and recordkeeping requirements
3101 Expansion of Authority to Award Costs and Certain Fees	1/19/99 ^b	Actions ongoing	Moves the point in time after which reasonable administrative costs may be recovered; raises hourly cap rate and expands reasons for exceeding it; considers losses on similar issues in other circuits to be relevant to the issue of substantial justification; allows for recovery of reasonable fees for pro bono services; awards administrative and litigation costs when IRS rejects "qualified offer" during "qualified period" and later recovers equal to or less than amount offered
3102 Civil Damages for Collection Actions	7/23/98	Actions completed	Expands circumstances where damages could be obtained from IRS
3103 Increase in Size of Cases Permitted on Small Case Calendar	7/23/98	Actions completed	Increases the jurisdictional limit for small tax cases to \$50,000; simplified procedures more readily available to taxpayers
3104 Actions for Refund With Respect to Certain Estates Which Have Elected the Installment Method of Payment	7/23/98	Actions completed	Permits estates electing to defer certain payments to file a refund suit if no portion of certain payments have been accelerated; all installments due on or before the suit is filed have been paid; no Tax Court case is pending; and no proceeding for declaratory judgment is pending
3105 Administrative Appeal of Adverse Internal Revenue Service Determination of Tax-Exempt Status of Bond Issue	7/22/98	Actions ongoing	Allows bond issuers to protest IRS' proposed revocation of the tax-exempt status of bonds as a matter of right before interest is declared taxable
3106 Civil Action for Release of Erroneous Lien	7/22/98	Actions completed	Provides administrative relief to third parties subject to wrongful liens on property
3201 Relief From Joint and Several Liability on Joint Return	7/23/98, with some exceptions	Actions ongoing	Increases ways to obtain relief; expands and simplifies innocent spouse relief; allows separate liability election and equitable relief where appropriate
3202 Suspension of Statute of Limitations on Filing Refund Claims During Periods of Disability	Periods of disability before, on, or after 7/22/98, unless barred by operation or rule of law	Actions completed	Suspends the statute of limitations during periods of physical or mental disability when certain conditions are met
3301 Elimination of Interest Rate Differential on Overlapping Periods of Interest on Tax Overpayments and Underpayments	7/23/98, with some exceptions	Actions ongoing	Eliminates the interest rate differential for periods of mutual indebtedness
3302 Increase in Overpayment Rate Payable to Taxpayers Other Than Corporations	1/1/99	Actions completed	Increases the interest rate on overpayments for all taxpayers, except corporations, to the federal short-term rate plus 3 percentage points
3303 Mitigation of Penalty on Individual's Failure to Pay for Months During Period of Installment Agreement	1/1/00	Actions ongoing	Reduces failure-to-pay penalty to half the usual rate for any month when an installment agreement is in effect, if return is filed in a timely manner

Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and Restructuring Act of 1998

Section	Effective date	Status^a	General description
3304 Mitigation of Failure to Deposit Penalty	1/19/99, ^b with some exceptions	Actions ongoing	Allows taxpayers to redesignate the application of its deposits; eliminates some penalties when deposit status has changed; as of 1/1/02 applies deposits to current liabilities first, unless the taxpayer designates a different period
3305 Suspension of Interest and Certain Penalties Where Secretary Fails to Contact Individual Taxpayer	Tax years ending after 7/22/98	Actions ongoing	Stops imposition of any interest, penalties, and additions to tax when taxpayer is not sent a notice of deficiency within 18 months ^c
3306 Procedural Requirements for Imposition of Penalties and Additions to Tax	1/1/01	Not yet effective	Requires IRS to show how penalties are computed and include a citation of the code provision under which the penalty is imposed; requires management approval to assess penalties, except in certain situations
3307 Personal Delivery of Notice of Penalty Under Section 6672	7/22/98	Actions completed	Permits personal delivery of preliminary notice of trust fund recovery penalty; alternative to mail
3308 Notice of Interest Charges	1/1/01	Not yet effective	Requires that notices show detailed computation of interest charged and citation of Code section under which interest is imposed
3309 Abatement of Interest on Underpayments by Taxpayers in Presidentially Declared Disaster Areas	1/1/98	Actions completed	Abates the payment of interest where time for filing a return and paying income tax has been extended for presidentially declared disaster areas
3401 Due Process in Internal Revenue Service Collection Actions	1/19/99 ^b	Actions ongoing	Requires written notification to taxpayer when lien has been filed, including taxpayer's right to a hearing; requires notification when a levy is about to be made of a taxpayer's right to a hearing; entitles one hearing per tax period before appeals officer
3411 Confidentiality Privileges Relating to Taxpayer Communications	7/22/98	Actions completed	Creates confidentiality privilege for tax advice between a taxpayer and any federally authorized tax practitioner
3412 Limitation on Financial Status Audit Techniques	7/22/98	Actions completed	Limits use of financial status audit techniques to situations where reasonable likelihood of unreported income exists
3413 Software Trade Secret Protections	7/23/98, unless software was acquired on or before enactment, then effective the 90 th day after such date	Actions completed	Prohibits issuance of a summons for tax-related computer software source code, in general
3414 Threat of Audit Prohibited to Coerce Tip Reporting Alternative Commitment Agreements	7/22/98	Actions completed	Instructs employees not to threaten taxpayers with an audit to coerce them into a Tip Reporting Alternative Commitment agreement
3415 Taxpayers Allowed Motion to Quash All 3 rd Party Summonses	7/23/98	Actions ongoing	Requires taxpayer whose tax liability is being investigated to receive notice of any summons issued to persons other than the taxpayer, with some exceptions; this provision does not limit IRS' ability to obtain information other than by summons, through other formal or informal procedures authorized by the Code
3416 Service of Summonses to Third-Party Recordkeepers Permitted by Mail	7/23/98	Actions completed	Allows summonses to third-party recordkeepers to be delivered by certified or registered mail

**Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and
Restructuring Act of 1998**

Section	Effective date	Status^a	General description
3417 Notice of Internal Revenue Service Contact of Third Parties	1/19/99 ^b	Actions ongoing	Requires notification to the taxpayer before a third-party is contacted with respect to the taxpayer; IRS must keep track of the third parties contacted; IRS must provide that information to taxpayers on a periodic basis or whenever asked; does not apply to criminal tax matters, when collection is in jeopardy, if IRS determines that disclosure may involve reprisals, or if the taxpayer authorized the contact
3421 Approval Process for Liens, Levies, and Seizures	7/22/98, except in Automated Collection System Actions, 1/1/01	Actions ongoing	Expands circumstances where supervisors must approve liens, levies, and seizures
3431 Modifications to Certain Levy Exemption Amounts	7/23/98	Actions completed	Raises the levy exemption amount of books, tools of trade, fuel, provisions, furniture, personal effects, arms for personal use, livestock and poultry; indexes amounts for inflation
3432 Release of Levy Upon Agreement That Amount Is Uncollectible	1/1/00	Actions ongoing	Calls for release of wage levies once IRS determines that the amount is uncollectible
3433 Levy Prohibited During Pendency of Refund Proceedings	1/1/99	Actions completed	Disallows levies on assets for any unpaid "divisible tax" during pendency of a refund action over such taxes, in general
3434 Approval Required for Jeopardy and Termination Assessments and Jeopardy Levies	7/23/99	Actions completed	Requires Chief Counsel to approve all jeopardy and termination assessments and jeopardy levies
3435 Increase in Amount of Certain Property on Which Lien Not Valid	7/22/98	Actions completed	Increases the dollar limit for purchasers at a casual sale; indexes amounts for inflation
3436 Waiver of Early Withdrawal Tax for Internal Revenue Service Levies on Employer-Sponsored Retirement Plans or IRAs	1/1/00	Actions ongoing	Provides new exception to 10-percent additional tax on the early distributions from qualified retirement plans or Individual Retirement Accounts
3441 Prohibition of Sales of Seized Property at Less Than Minimum Bid	7/23/98	Actions completed	Requires a set minimum bid price below which seized property cannot be sold
3442 Accounting of Sales of Seized Property	7/23/98	Actions completed	Requires IRS to keep a record of all sales of property seized and give the taxpayer whose property has been sold or redeemed a copy of the record and amount from each sale applied to taxpayer's account and the remaining balance
3443 Uniform Asset Disposal Mechanism	7/23/00 ^d	Not yet effective	Requires a uniform asset disposal mechanism for sales of seized property conducted pursuant to certain regulations; removes revenue officers from sales and authorizes consideration of outsourcing
3444 Codification of Internal Revenue Service Administrative Procedures for Seizure of Taxpayer's Property	7/22/98	Actions completed	Codifies administrative provisions requiring the revenue officer to determine if there are sufficient net proceeds from sales to apply to unpaid taxpayer liabilities; requires verification of the taxpayer's liability and determination of any alternate means of collection
3445 Procedures for Seizure of Residences and Businesses	7/22/98	Actions completed	Exempts principal residences from levy if levy amount does not exceed \$5,000; exempts taxpayer's principal residence and tangible personal or real property used in trade or business from levy, except in certain circumstances

**Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and
Restructuring Act of 1998**

Section	Effective date	Status^a	General description
3461 Procedures Relating to Extensions of Statute of Limitations by Agreement	1/1/00, with some exceptions	Actions ongoing	Authorizes an extension of the collection statute of limitations by agreement only if in connection with an installment agreement or the release of levy; IRS must notify the taxpayer of the right to refuse to extend the statute of limitations
3462 Offers-in-Compromise	7/23/98	Actions ongoing	IRS guidelines must provide that basic living expenses will be determined on the facts and circumstances of each taxpayer's case; offers from low-income taxpayers will not be rejected solely on the basis of the amount of the offer; taxpayers will no longer be required to waive the statute of limitations on collection; regulations will be expanded to provide additional bases for compromise; if one joint spouse defaults on compromise, nondefaulting spouse can reinstate; additional notices required to explain taxpayer rights; levy prohibited where offer pending or installment agreement pending or in effect
3463 Notice of Deficiency to Specify Deadlines for Filing Tax Court Petition	1/1/99	Actions completed	Requires IRS to include in the notice of deficiency the deadline for filing a Tax Court petition
3464 Refund or Credit of Overpayments Before Final Determination	7/22/98	Actions completed	Allows any federal court with jurisdiction to order refund of any amount collected during a period when IRS was barred from doing so; allows an action for recovery of an overpayment in certain situations
3465 Internal Revenue Service Procedures Relating to Appeals of Examinations and Collections	7/22/98	Actions ongoing	Requires the establishment of procedures for early referral of disputes to Appeals, nonbinding mediation of unresolved issues or unsuccessful attempt to enter into closing agreements or offers-in-compromise; requires the establishment of a pilot program for binding arbitration, that IRS assign an appeals officer to each state, and to consider videoconferencing in rural or remote areas
3466 Application of Certain Fair Debt Collection Procedures	7/22/98	Actions completed	Incorporates certain restrictions of the Fair Debt Collection Practice Act relating to communications with the taxpayer and to any actions the consequence of which would harass or abuse the taxpayer
3467 Guaranteed Availability of Installment Agreements	7/22/98	Actions completed	Codifies existing administrative procedure and requires IRS to enter into installment agreements at the taxpayer's request if the liability does not exceed \$10,000 and certain other conditions met
3468 Prohibition on Requests to Taxpayers to Give Up Rights to Bring Actions	7/22/98	Actions completed	Prohibits any officer or employee of the United States from requesting a taxpayer to waive the right to bring a civil action against the United States or any United States employee for any action taken in connection with the internal revenue laws, with some exceptions
3501 Explanation of Joint and Several Liability	1/19/99 ^b	Actions completed	Requires revision to certain forms, publications, and notices to alert joint filers of their joint and several liability for tax and the availability of relief under the new innocent spouse provision

**Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and
Restructuring Act of 1998**

Section	Effective date	Status^a	General description
3502 Explanation of Taxpayers' Rights in Interviews with the Internal Revenue Service	1/19/99 ^b	Actions completed	Requires taxpayers to be more clearly informed of their rights to be represented at interviews and to suspend an interview if they want to consult with an authorized representative
3503 Disclosure of Criteria for Examination Selection	1/19/99 ^b	Actions completed	Requires IRS to incorporate a statement describing the criteria and general procedures for selecting taxpayers for examination into Publication 1, "Your Rights as a Taxpayer"
3504 Explanations of Appeals and Collection Process	1/19/99 ^b	Actions completed	Requires IRS to include with any first letter of proposed deficiency, an explanation of the entire process from examination through collection, including the assistance available from the Taxpayer Advocate at various points in the process
3505 Explanation of Reason for Refund Disallowance	1/19/99 ^b	Actions completed	Provides taxpayers with reasons for the full or partial disallowance of a refund claim
3506 Statements Regarding Installment Agreements	7/1/00	Not yet effective	Provides an annual statement to every taxpayer with an installment agreement setting forth the initial balance at the beginning of the year, payments made during the year, and the remaining balance at the end of the year
3507 Notification in Change in Tax Matters Partner	7/23/98	Actions completed	Requires IRS to notify each partner whenever it designates a tax matters partner of the name and address of the person selected
3508 Disclosure to Taxpayers	7/22/98	Actions completed	Requires general tax forms instruction booklets to include a description of conditions under which tax return information may be disclosed outside IRS
3509 Disclosure of Chief Counsel Advice	10/20/98, ^e with some exceptions	Actions completed	Establishes a structured process by which the IRS will make "Chief Counsel Advice" open to public inspection on an ongoing basis
3601 Low-Income Taxpayer Clinics	7/22/98	Actions ongoing	Authorizes IRS to make matching grants up to \$100,000 per year to develop, expand, or continue qualifying low-income taxpayer clinics; the aggregate amount of grants that may be awarded each year is \$6 million
3701 Cataloging Complaints	1/1/00	Actions completed	Requires a system to maintain records of taxpayer complaints regarding misconduct on an individual employee basis
3702 Archive of Records of Internal Revenue Service	7/23/98	Actions completed	Requires IRS to disclose certain records to officers and employees of the National Archives and Records Administration for purposes of the appraisal of such records for destruction or retention
3703 Payment of Taxes	7/22/98	Actions ongoing	Taxes paid by check or money order may now be made payable to the United States Treasury
3704 Clarification of Authority of Secretary Relating to the Making of Elections	7/22/98	Actions completed	Allows the Treasury Secretary to prescribe the manner of making any election under the Code by any reasonable means, except as otherwise provided

**Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and
Restructuring Act of 1998**

Section	Effective date	Status^a	General description
3705 Internal Revenue Service Employee Contacts	9/20/98, ^l with some exceptions	Actions completed	Requires that any manually generated correspondence will include the name, telephone number, and identifying number of the IRS employee that may be contacted; other correspondence will include a telephone number; taxpayer will be given IRS employee name and identifying number during telephone or personal contact; when possible, one IRS employee will be assigned to handle a taxpayer's matter until it is resolved; when appropriate, taxpayer questions on telephone help lines will be answered in Spanish; telephone help lines will provide an option for taxpayers to talk to IRS employees during normal business hours
3706 Use of Pseudonyms by Internal Revenue Service Employees	7/23/98	Actions ongoing	Limits use of an employee pseudonym only with adequate justification and management approval before its use
3707 Illegal Tax Protestor Designation	No longer use designation as of 7/22/98; begin removing prior designations by 1/1/99	Actions ongoing	Prohibits use of "illegal tax protester" designation and calls for removal of any such designation in a taxpayer's file
3708 Provision of Confidential Information to Congress by Whistleblowers	7/22/98	Actions completed	Allows any person who is or was authorized to receive confidential tax information to disclose information related to possible misconduct, maladministration, or abuse directly to the Senate Committee on Finance, House Committee on Ways and Means, Joint Committee on Taxation, or any individual authorized by one of these committees
3709 Listing of Local Internal Revenue Service Telephone Numbers and Addresses	As soon as practicable	Actions ongoing	Requires IRS to publish addresses and telephone numbers of local IRS offices in appropriate telephone directories
3710 Identification of Return Preparers	7/22/98	Actions ongoing	Authorizes IRS to approve alternatives to Social Security numbers to identify income tax return preparers
3711 Offset of Past-Due, Legally Enforceable State Income Tax Obligations Against Overpayments	1/1/00	Actions completed	Permits states to participate in the Tax Refund Offset Program for specified past-due, legally enforceable state income tax debts
3712 Reporting Requirements in Connection With Education Tax Credit	1/1/99	Actions ongoing	Requires institutions to report any grant amount received by a student for payment of costs of attendance and processed through the institution
3801 Administration of Penalties and Interest	7/23/99 ^g	Actions completed	Requires the Joint Committee on Taxation and the Treasury to separately study the administration and implementation of the interest and penalty provisions of the Code and make any recommendations deemed appropriate to simplify penalty administration and reduce taxpayer burden
3802 Confidentiality of Tax Return Information	1/23/00 ^h	Actions ongoing	Requires the Joint Committee on Taxation and the Treasury to separately study provisions on taxpayer privacy and make any recommendations

Appendix I
Status of IRS' Actions to Implement Title III of the Internal Revenue Service Reform and Restructuring Act of 1998

Section	Effective date	Status ^a	General description
3803 Study of Noncompliance With Internal Revenue Laws by Taxpayers	7/23/99 ^g	Actions ongoing	Requires the Treasury Secretary and IRS Commissioner, in consultation with the Joint Committee on Taxation, to conduct a study of noncompliance with the tax law, including tax law complexity and willful noncompliance or other factors
3804 Study of Payments Made for Detection of Underpayments and Fraud	7/23/99 ^g	Actions completed	Requires the Treasury Secretary to study the use of section 7623 for detecting the underpayment of tax and report any legislative or administrative recommendations

Note: Status of actions as reported by IRS as of Jan. 31, 2000.

^aA provision's status is either (1) completed, (2) ongoing, or (3) not yet effective. According to an IRS official, "completed" means that all legal requirements of the IRS Restructuring and Reform Act of 1998 have been met and that all steps in a provision's action plan, such as updating forms, publications, and manuals, have been completed. "Ongoing" means that all legal requirements have been met and that some, but not all, action items have been completed. "Not yet effective" means that the provision's effective date has not been reached.

^bThe amendments made by this section shall apply after the 180th day after the date of enactment, which is January 19, 1999.

^cFor taxable years beginning January 1, 2004, the taxpayer must be sent the notice within 1 year.

^dThe amendments made by this section shall apply not later than 2 years after the date of enactment, which is July 23, 2000.

^eIn general, the amendments made by this section shall apply to advise issued more than 90 days after the date of enactment, which is October 20, 1998.

^fIn general, the amendments made by this section shall take effect 60 days after the date of enactment, which is September 20, 1998.

^gThe findings of this study shall be given to Congress not later than 1 year after the date of enactment, which is July 23, 1999.

^hThe findings of this study shall be given to Congress not later than 18 months after the date of enactment, which is January 23, 2000.

Source: P.L. 105-206 and IRS Taxpayer Treatment and Service Improvement Program Office.

Comments From the Internal Revenue Service



COMMISSIONER

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

April 7, 2000

Ms. Cornelia M. Ashby
Associate Director, Tax Policy and Administration Issues
United States General Accounting Office
Washington, DC 20548

Dear Ms. Ashby:

Thank you for the opportunity to review and comment on your draft report entitled "IRS' Implementation of the Restructuring Act's Taxpayer Protection and Rights Provisions." We are pleased with this report and appreciate your staff's work in reviewing the efforts the IRS has taken to implement this legislation.

The report provides a fair and balanced assessment of our implementation strategy and we concur with your comment, at page 9, that "a substantial effort was required to implement the law." I am also encouraged by your recognition of the many steps we have taken to manage the implementation process.

Many of the steps taken were unique to the implementation of this Act and were set in motion before the Act was signed into law. For example, an IRS executive was assigned cross-functional implementation responsibility for each provision of the Act. These executives were also members of our IRS Restructuring and Reform Act Executive Steering Committee where the implementation was constantly reviewed and issues were resolved. We also used a real-time database to record and monitor the progress of the more than 1,600 actions needed to implement the Act. Additionally, we instituted a National Resource Center that sent guidance and coordinated responses to more than 1,200 employee questions about the Act.

I would like to comment on one specific point made in the report. The report states that Collection personnel forwarded cases, upon a taxpayer's request, to Appeals for a due process review when alternatives to resolve the cases were available. The report then says that this was done to prevent allegations, under section 1203 of the Act, from being made and to avoid the perception that Collection personnel were denying taxpayers their rights. We believe the connection is not quite so simple.

Before the recent publication of additional guidance on January 11, 2000, many Collection employees did not believe they had an alternative to forwarding a request for a due process review to Appeals. The guidance makes it clear that a taxpayer and the IRS may continue to work toward a resolution after the request is made, provided the taxpayer consents to do so. Lastly, Collection has taken a number of steps to clarify

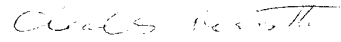
Appendix II
Comments From the Internal Revenue Service

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that "employee willfulness" is a requirement of establishing a violation under section 1203 of the Act and the appropriate exercise of enforcement authority is not prohibited.

Once again, we are pleased with the report and its acknowledgement of our efforts. If you have any questions or concerns, your staff may contact Stuart DeWitt of the Taxpayer Treatment and Service Improvement Office at (202) 622-3723.

Sincerely,



Charles O. Rossotti

GAO Contacts and Staff Acknowledgments

GAO Contacts

Cornelia M. Ashby (202) 512-9110
Charlie W. Daniel (202) 512-9110

Acknowledgments

In addition to those named above, Elizabeth M. Mixon, Catherine H. Myrick, Michael Tropauer, and Clarence Tull made key contributions to this report.

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