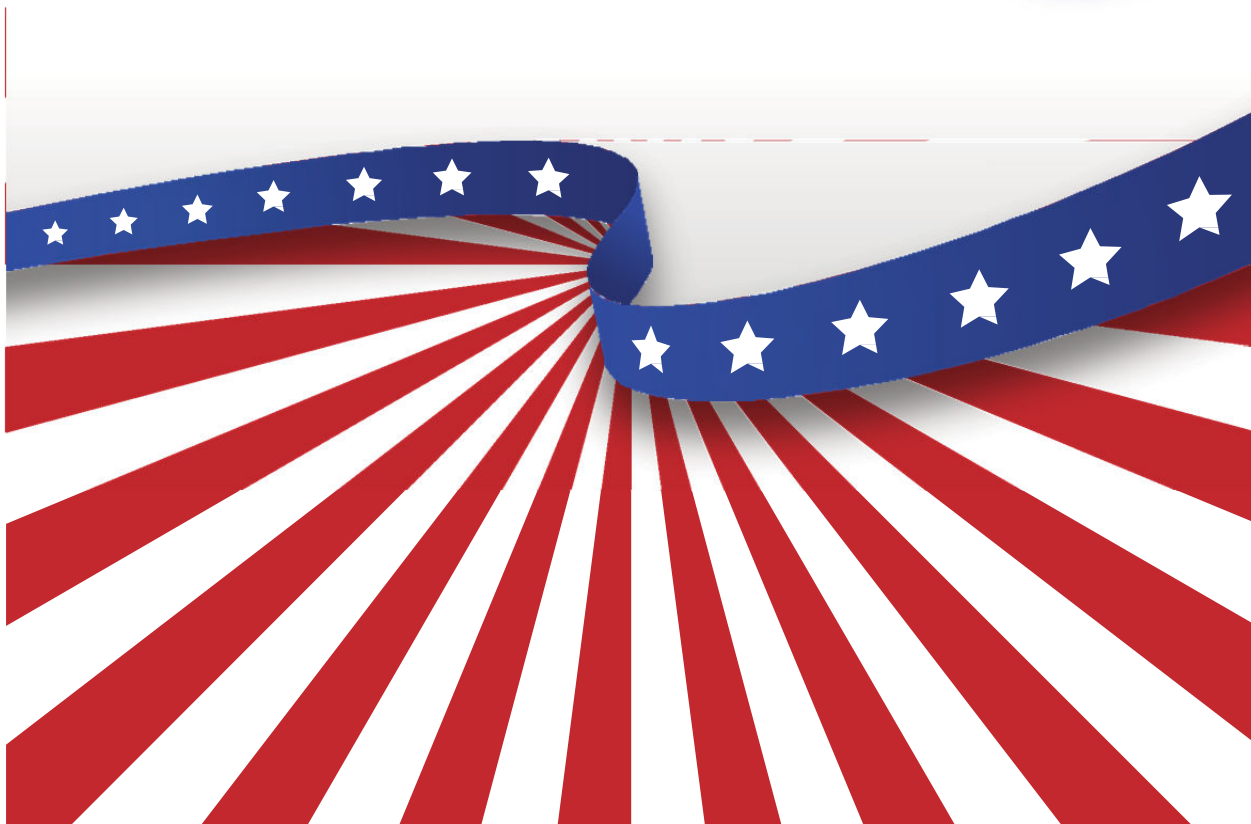




# IRS Whistleblower Program

Fiscal Year 2016

Annual Report to the Congress



## Table of Contents

<b>Message from the Director</b> .....	3
<b>Background and Program Evolution</b> .....	5
<b>Program Developments</b> .....	6
Guidance .....	6
Staffing .....	6
Figure 1: Whistleblower Office Staffing, Fiscal Years 2014 to 2016 .....	7
Outreach and Communications .....	7
<b>Administrative Priorities and Issues</b> .....	8
Administrative Guidance .....	8
Other Issues of Interest .....	8
<b>Fiscal Year 2016 Whistleblower Program Results</b> .....	9
Awards Paid, Fiscal Years 2014 to 2016 .....	10
Total Claims Related to Paid Awards and Avg. Days to Process Awards, Fiscal Years 2014 to 2016 ..	11
Total Stand-Alone, Master, and Related Claim Numbers by Month in Fiscal Year 2016 .....	12
Fiscal Year 2016 Receipts, by Operating Division .....	13
Claims Received, Open, and Closed, Fiscal Years 2014 to 2016 .....	14
Open IRC 7623(b) Claims as of Fiscal Year 2016 .....	15
Processes for Open Section 7623(a) and 7623(b) Claims .....	15
Closure Reasons for Fiscal Year 2016 .....	17
<b>Glossary of Terms</b> .....	19

## Message from the Director

The year 2016 marks the tenth year since the enactment of legislation that formally created the Internal Revenue Service (IRS) Whistleblower Office to oversee the IRS Whistleblower Program – a program that is an important component of the IRS’s overall enforcement and compliance work. Whistleblowers have helped the IRS detect and deter tax noncompliance and avoidance, helping to protect both the nation’s revenue collection and the integrity of our voluntary compliance tax system. Indeed, since 2007, information submitted by whistleblowers has assisted the IRS in collecting \$3.4 billion in revenue, and, in turn, the IRS has approved more than \$465 million in monetary awards to whistleblowers.

Fiscal Year (FY) 2016 was, by several measures, a very productive year for the Whistleblower Program. The Whistleblower Office made 418 awards to whistleblowers totaling more than \$61 million (before sequestration), which includes 18 awards under Section 7623(b). This represents a 322 percent increase in the number of awards made in FY 2016, as compared to the 99 total awards paid in FY 2015. Also, whistleblower claims assigned in FY 2016 were up 6.4 percent from those submitted in FY 2015, and closures increased by 99 percent.

FY 2016 was also a transformative year for the Whistleblower Program. We deployed resources from across IRS to help work the inventory backlogs identified by Government Accountability Office (GAO) in FY 2015. The backlogs have now been fully addressed or eliminated – enabling claims to move further along in the process to be worked appropriately. To avoid future backlogs, we reengineered and improved the process flow from claim receipt and onward, so that it is streamlined, efficient, and effective, enabling whistleblower claims to be timely and appropriately evaluated. Also, as part of our commitment to improve communication with whistleblowers, whistleblower submission acknowledgements are mailed to the whistleblower within days of a claim being received.

For FY 2017, we will continue to implement the changes, improvements and enhancements to the Whistleblower Program that we’ve committed to in response to recommendations from GAO, Treasury Inspector General for Tax Administration (TIGTA), and our internal Lean Six Sigma (LSS) organizational review. These changes will position the Whistleblower Program to build on its success, as we further strengthen this important tax administration tool.

The Whistleblower Program continues to pursue improvement to our communication strategy with whistleblowers, potential whistleblowers, and whistleblower attorneys. As a result of a GAO recommendation, the Whistleblower Office developed Publication 5251, The Whistleblower Claim Process and Timeline, that covers best practices on submitting a successful whistleblower claim for award and outlines the timeline for each step in the claim process.



---

*FY 2016 was a big year for awards under the Whistleblower Program, with 418 awards made to whistleblowers totaling more than \$61 million, which includes 18 awards under Section 7623(b).*

---

In FY 2016, the IRS rejected 12,395 claims from whistleblowers because the allegations were considered “Not Specific, Credible, or are Speculative in Nature”. A significant amount of resources are expended to sort through this information and cull out claims that warrant further pursuit. Both whistleblowers and the IRS stand to benefit from Publication 5251 because it could ultimately strengthen submissions and reduce the number of claims that are not actionable and thereby not productive to the whistleblower or IRS.

The Whistleblower Office is also working with the Office of Chief Counsel and the Department of Treasury to consider additional published guidance that would be helpful to the Whistleblower Program. The Whistleblower Office continues to support previously outlined legislative recommendations in the Administration’s FY 2017 Budget Tax Proposals (the Greenbook), which would provide better protections for both whistleblowers and for taxpayers. Specifically, the first recommendation would provide legal protections to whistleblowers from retaliation by employers, much like those protections accorded under other whistleblower award programs. Whistleblowers may be putting their careers at risk by coming forward with information, which is not an easy step to take. Of equal importance is the second legislative recommendation to provide stronger protections for taxpayers by imposing a sanction on whistleblowers who improperly disclose taxpayer information obtained from the IRS in connection with their whistleblower claim. Strong protections for whistleblowers and for taxpayers are two key pillars of a successful whistleblower program and sound tax administration.

In closing, the Whistleblower Office encourages anyone with specific and credible information about a tax noncompliance matter to provide this information to the Government by filing a claim on Form 211, Application for Award for Original Information, with the Whistleblower Office.



**Lee D. Martin**

Director, IRS Whistleblower Office

# Background and Program Evolution

The Tax Relief and Health Care Act of 2006 (the Act) added section 7623(b) to the Internal Revenue Code (Code), which enacted significant changes in the IRS award program for whistleblowers. This section set a new framework for the consideration of whistleblower submissions and established the Whistleblower Office within the IRS to administer that framework. The Act requires that the Secretary of the Treasury 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. This report discusses the Whistleblower Program activities for FY 2016 in satisfaction of the reporting obligations under the Act.

Operating at the direction of the Commissioner of the IRS, the Whistleblower Office coordinates with other IRS units, analyzes information submitted, and makes award determinations. If a submission does not meet the criteria for section 7623(b) consideration, the IRS may generally consider it for an award pursuant to its discretionary authority under section 7623(a). A whistleblower must meet several conditions to qualify for the section 7623(b) award program. The information must be:

- Signed and submitted under penalties of perjury.
- Relate to an action 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 United States Tax Court (Tax Court).

The IRS pays awards from collected proceeds, and as such, payments cannot be made until the taxpayer has exhausted all appeal rights and the taxpayer no longer has the ability to file a claim for refund. Therefore, typically the IRS cannot make payments for at least five to seven years after the whistleblower has filed a claim.

# Program Developments

## Guidance

On August 12, 2014, Treasury and the IRS published final regulations in the Federal Register.<sup>1</sup> The final regulations added necessary clarification and provided additional guidance regarding whistleblower claims 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. Following the publication of the regulations, the Deputy Commissioner for Services and Enforcement issued a memorandum, on August 20, 2014, highlighting the value of whistleblower information and the importance of timely evaluation of that information, as part of a balanced tax enforcement program that respects taxpayer rights.<sup>2</sup>

GAO completed an audit of the Whistleblower Office in FY 2016. As a result, GAO provided the Whistleblower Office with ten recommendations. The Whistleblower Office has implemented nine of the ten recommendations. The Whistleblower Office also received recommendations from TIGTA; however, these recommendations are under review and will be implemented in FY 2017.

Utilizing the recommendations from GAO, the Whistleblower Office issued policy providing definitive guidance for separation and management of whistleblower information from the examination files. The Whistleblower Office also strengthened the award calculation process. As part of the process improvements, the Whistleblower Office enhanced the program operating procedures to capture the requisite level of management review and verification with respect to award calculations and award letters. Guidance was issued that outlined the requirements for management review of the preliminary award recommendation and award letters for accuracy, supporting documentation, verification of collected proceeds, and review of key dates for the final determination of tax.

During FY 2017, the Whistleblower Office will continue to implement the changes, improvements and enhancements to the Whistleblower Program that we have committed to in response to recommendations from GAO, TIGTA, and our internal Lean Six Sigma (LSS) organizational review. These changes allow the Whistleblower Program to better leverage IRS expertise and resources to maximize the efficiency and effectiveness of the claim process.

## Staffing

At the beginning of FY 2016, the Whistleblower Office staff of 61 included 18 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. To ensure the resources committed to the Whistleblower Program are applied efficiently and effectively, the Initial Claim Evaluation Unit (ICE) in the Whistleblower Office was realigned to the Small Business and Self-

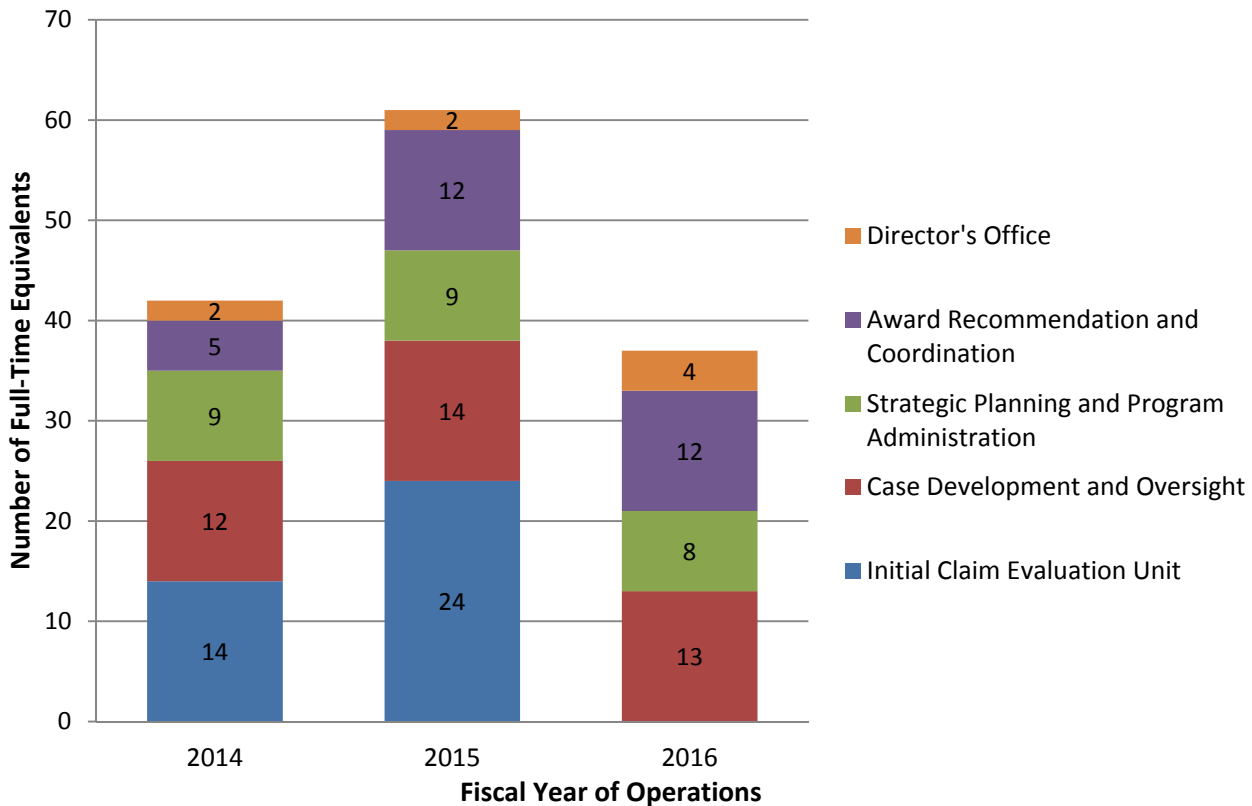
---

<sup>1</sup> <https://www.federalregister.gov/articles/2014/08/12/2014-18858/awards-for-information-relating-to-detecting-underpayments-of-tax-or-violations-of-the-internal>

<sup>2</sup> [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)

Employed (SB/SE) organization on July 10, 2016. This realignment was in response to recommendations from the IRS LSS team and GAO to streamline intake and initial review processes. As a result of this recommended realignment, the total staff of the Whistleblower Office at year end was 37 employees, including 19 senior analysts. Also, the Whistleblower Office still utilizes the ICE Unit employees who are dedicated to intake and classification of the whistleblower claims, but are now in SB/SE to allow for the immediate deployment of additional resources when there is an increase in volume of incoming claims.

**Figure 1: Whistleblower Office Staffing, Fiscal Years 2014 to 2016**



## Outreach and Communications

The Whistleblower Office maintains a page on the IRS Intranet to for IRS personnel and provides articles for internal newsletters and speakers for professional education events. There is also a dedicated page on the IRS website, [www.irs.gov](http://www.irs.gov),<sup>3</sup> which provides information for the public about the purpose of the Whistleblower Program. The website also includes links to the final regulations and the Form 211, Application for Award for Original Information. The Whistleblower Office developed Publication 5251, The Whistleblower Claim Process and Timeline, which provides information on filing a whistleblower claim for award, the timeline for each step in the claim process, and common reasons for rejection or denial of claims. Additionally, the Whistleblower Office's acknowledgment letters were updated to include a reference to Publication 5251 and its availability on IRS.gov. The acknowledgment letters were also updated to provide instruction to whistleblowers indicating that address changes must be sent in writing directly to the Whistleblower Office.

<sup>3</sup> <http://www.irs.gov/uac/Whistleblower-Informant-Award>

The program has continued its outreach efforts through the use of IRS social media accounts as well as publically subscribed newsletters. The Whistleblower Office utilized Twitter to announce the annual report and the creation of Publication 5251. @IRSNews, @IRStaxpros, and the E-Tax Professionals Newsletter have garnered many views. The Whistleblower Office also shares relevant information regularly with whistleblower attorneys through its listserv.

The Whistleblower Office makes presentations to share program developments with professional groups involved in the representation of both taxpayers and whistleblowers, including Taxpayers Against Fraud (TAF) Education Fund and the IRS Tax Whistleblower Forum. In return, the Whistleblower Office obtains outside perspectives on the Whistleblower Program. The Whistleblower Office provides consultation to other federal agencies and tax administration agencies of other nations, as they evaluated options for establishing their own whistleblower award programs.

## 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 has addressed several issues through administrative guidance and continues to evaluate others that may warrant additional guidance.

### Administrative Guidance

During FY 2016, the Whistleblower Office completed updates to the Internal Revenue Manual (IRM), correspondence, policies, and procedures based on the final regulations. Additional updates to internal procedural guidance will continue in FY 2017 to address the recommendations of GAO and TIGTA as well as the internal LSS review.

The Whistleblower Office is also working with the Office of Chief Counsel and Treasury to consider amending the final regulations to reflect recent developments and to improve the administration of the Whistleblower Program. Administrative guidance may be considered in FY 2017 and, if so, the IRS will provide notice and request public comment on any guidance it issues.

### Other Issues of Interest

#### 1. Rules on access to and disclosure of taxpayer information could provide stronger protection for taxpayers.

Since FY 2010, the Whistleblower Office's Annual Reports have noted concerns regarding the disclosure of taxpayer information to whistleblowers. Section 6103 provides authority for the IRS to disclose tax information to whistleblowers in certain, limited instances. Currently, the IRS uses the authority of section 6103(k)(6), which provides that return information may be disclosed as part of an investigation to the extent necessary in obtaining information, to communicate with whistleblowers where appropriate. The IRS also continues to look for appropriate cases to enter agreements under section 6103(n). Neither authority, however, precisely addresses the circumstances in which most disclosures to whistleblowers arise. Thus, the IRS welcomes the amendments recently proposed before the Senate that would both specifically authorize necessary investigative disclosures by the IRS to whistleblowers under section 6103(k) and at the same time ensure protection of taxpayer's return information by extending the criminal penalties associated with any unauthorized re-disclosures by whistleblowers receiving such information. See S. Rep. No. 114-298 (2016).



Additional taxpayer protections remain necessary with respect to disclosures made during the course of the administrative award determination process and resulting appeals to the Tax Court. The IRS makes disclosures in the administrative proceeding and before the Tax Court, pursuant to the authority of section 6103(h)(4). In conjunction with such disclosures, the IRS requires confidentiality agreements and the Tax Court issues protective orders to limit the ability of whistleblowers to re-disclose a taxpayer's return information. The effectiveness of these tools is limited. There is no restraint on whistleblowers re-disclosing return information following the completion of the administrative and judicial processes.

The absence of such protections has become all the more relevant in the context of extensive Tax Court discovery into taxpayer examination files. It is fundamentally unfair to the taxpayer (and potentially damages our system of tax administration) to be subject to the public release of confidential return information as a result of proceedings to which the taxpayer is not a party and otherwise has no interest. Since FY 2014, the Administration's Budget has included a legislative proposal to extend the safeguarding requirements and penalties to whistleblowers for the unauthorized disclosure of taxpayer information obtained from the IRS.

## 2. The law does not provide for whistleblower protection.

Since FY 2014, the Administration's Budget has also included a legislative proposal to provide whistleblowers with protection from retaliation, which section 7623 currently lacks. Providing whistleblowers with a zone of protection from economic or physical harm is imperative to the success of any whistleblower program as Congress has recognized in other whistleblower statutes. Accordingly, the IRS welcomes the recent Congressional proposal to provide explicit anti-retaliation protections for those individuals submitting information to the IRS. See S. Rep. No. 114-298 (2016). No individual should suffer any reprisals for providing truthful information to the IRS.

The need for greater protection of whistleblowers is amplified as sophisticated taxpayers are increasingly attempting to learn the existence or identity of a whistleblower. The IRS remains committed to protecting the identity and even the existence of whistleblowers. Nonetheless, the defenses available to the IRS to maintain the confidentiality of whistleblowers are limited at best and additional statutory protections are necessary.

# Fiscal Year 2016 Whistleblower Program Results

Under section 6103, returns and return information are confidential, unless an exception applies. There is no exception in section 6103 that permits the publication of data on identifiable, individual whistleblowers. The IRS may, however, disclose information in aggregate form when the data cannot be associated with, or otherwise identify a particular taxpayer (or whistleblower). In compliance with these disclosure rules, summary data on awards paid, receipts, closures, and claim status appear in this report.

## Awards Paid, Fiscal Years 2014 to 2016

Table 1 provides current and historical information on awards paid and collections attributable to whistleblower information, prior to the sequestration reduction described below. 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. The year in which an award is paid is generally not the year in which the collections occurred because the IRS must wait until there is a final determination of tax, which means that the taxpayer has exhausted all appeal rights and no longer has the ability to file a claim for refund.

In March 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. The sequester reduction applied may change from year-to-year. As applied to payments under section 7623, the required reductions were 6.8 percent of the amount that would otherwise have been payable in FY 2016. Sequestration reductions totaling \$4,174,582 were applied to awards paid during FY 2016.

Since 2007, the Whistleblower Office made awards in the amount of \$465,195,241 based on the collection of \$3,419,348,974. In FY 2016, the IRS made 418 awards, totaling \$61,390,910 prior to sequestration; the total award amount represented 16.6% of total amounts collected. In FY 2016, there were 18 award payments involving section 7623(b) claims.

**Table 1: Amounts Collected and Awards under Section 7623, Fiscal Years 2014 to 2016**

	FY 2014	FY 2015	FY 2016
<b>Total Claims Related to Awards</b>	240	204	761
<b>Total Number of Awards<sup>4</sup></b>	101	99	418
<b>Total IRC 7623(b) Awards</b>		19	18
<b>Collections over \$2,000,000<sup>5</sup></b>	9	11	16
<b>Total Amount of Awards<sup>6</sup></b>	\$52,281,628	\$103,486,236 <sup>7</sup>	\$61,390,910
<b>Amounts Collected</b>	\$309,990,568	\$501,317,481	\$368,907,298
<b>Awards as a Percentage of Amounts Collected</b>	16.9%	20.6%	16.6%

<sup>4</sup> For Table 1, "Total Number of Awards" reflects the number of payments to whistleblowers. In some cases, awards can include proceeds from multiple taxpayers, which are reflected in the "Total Claims Related to Awards."

<sup>5</sup> This row includes pre-enactment section 7623(a) claims that were greater than \$2 million and section 7623(b) claims.

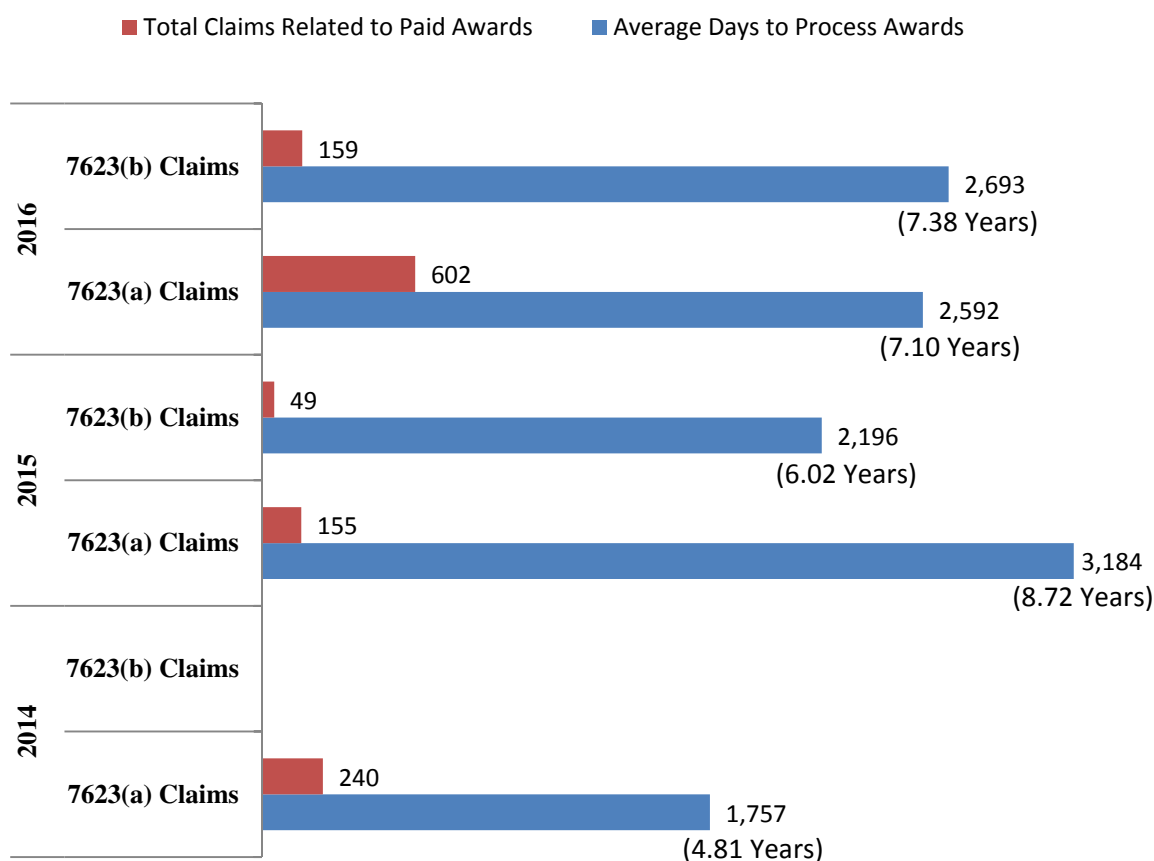
<sup>6</sup> The "Total Amount of Awards" is prior to sequestration reductions.

<sup>7</sup> The "Total Amount of Awards" was overstated by \$441.84 on the FY 2015 Annual Report, and Table 1 has been revised to reflect the correct amount.

## Total Claims Related to Awards and Average Days to Process Awards, Fiscal Years 2014 to 2016

Figure 2 provides the average processing days for award claims paid under section 7623(a) and 7623(b). Typically the IRS does not determine awards for at least five to seven years after the whistleblower has filed a claim because a payment cannot be made until there is a final determination of tax. This is consistent with the notice provided to whistleblowers that awards are typically not paid until several years after receipt of the claim.

**Figure 2: Total Claims Related to Awards<sup>8</sup> and Average Days to Process Awards by Claim Type, Fiscal Years 2014 to 2016**

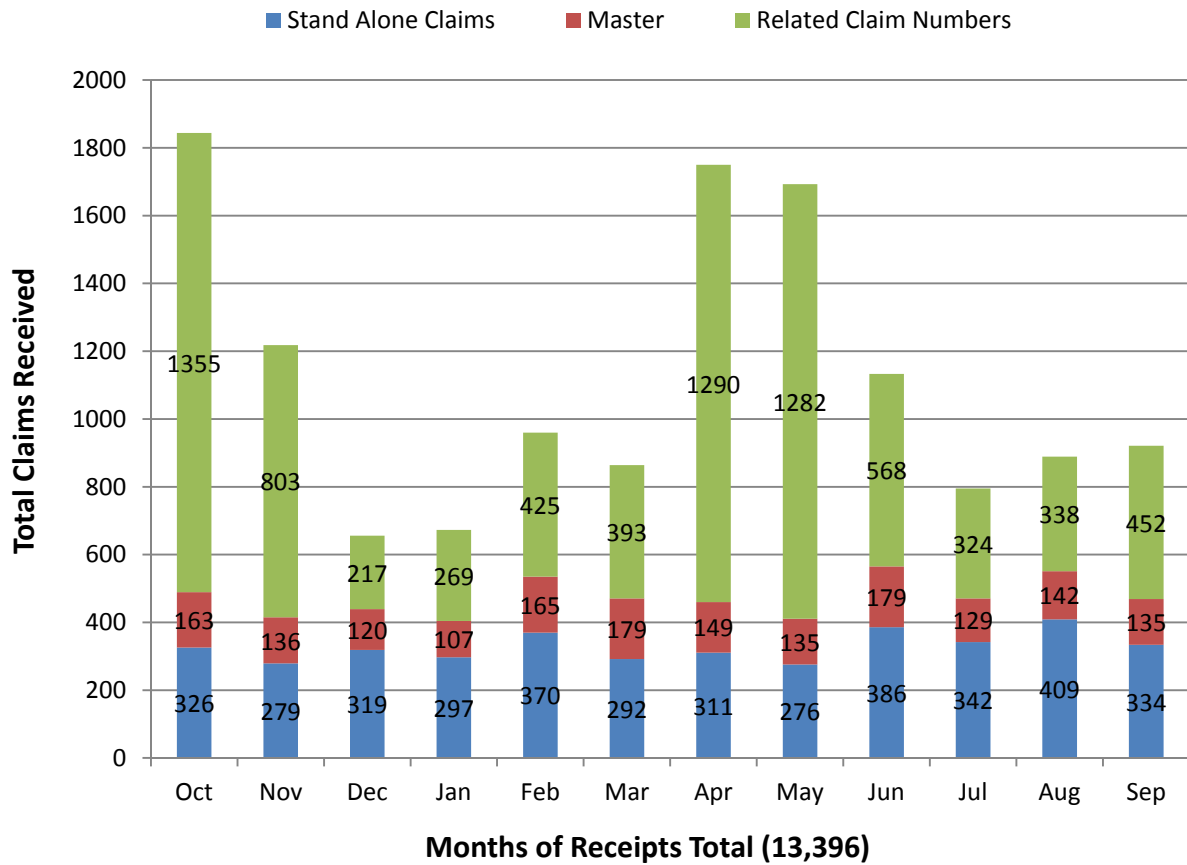


<sup>8</sup> Figure 2 only reflects claims paid in full as of September 30, 2016.

## Total Stand-Alone, Master, and Related Claim Numbers by Month in Fiscal Year 2016

Figure 3 identifies trends and fluctuations as they pertain to Form 211, Application for Award for Original Information, submissions to the Whistleblower Office and claim numbers issued each month in FY 2016. Figure 3 identifies the submissions as stand-alone, master, and related claim numbers. Stand-alone claims are defined as submissions identifying one taxpayer. As a general rule, multiple claim numbers are assigned when the claim submission identifies multiple taxpayers. When multiple taxpayers are identified, the claim is then subsequently identified as a master claim, with related claim numbers. For each master claim identified below, there is at least one related claim number.

**Figure 3: Total Claims Received by Month in Fiscal Year 2016**



## Fiscal Year 2016 Receipts, by Operating Division

Table 2 below provides additional information on submissions received in FY 2016. This table identifies the IRS operating divisions to which the claim numbers are assigned for review and action. 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 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 claims. A claim initially assigned to LB&I, SB/SE 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.

As a general rule, multiple claim numbers are assigned when the submission identifies multiple taxpayers. The table also identifies the claim types. Claims listed as 7623(b) include any claim that appears to have the potential to exceed the \$2 million threshold under section 7623(b)(5)(B), with all others classified as 7623(a) claims.

**Table 2: Fiscal Year 2016 Receipts, by Operating Division**

Operating Division		Claim Type <sup>9</sup>		Total
		7623(a)	7623(b)	
CI	Submissions	31	21	52
	Claim Numbers	76	1,249	1,325
LB&I	Submissions	329	60	389
	Claim Numbers	1,110	184	1,294
SBSE	Submissions	3,859	82	3,941
	Claim Numbers	9,216	1,244	10,460
TEGE	Submissions	169	15	184
	Claim Numbers	232	26	258
Not Specified <sup>10</sup>	Submissions	29	1	30
	Claim Numbers	58	1	59
Total Submissions		4,417	179	4,596
Total Claim Numbers		10,692	2,704	13,396

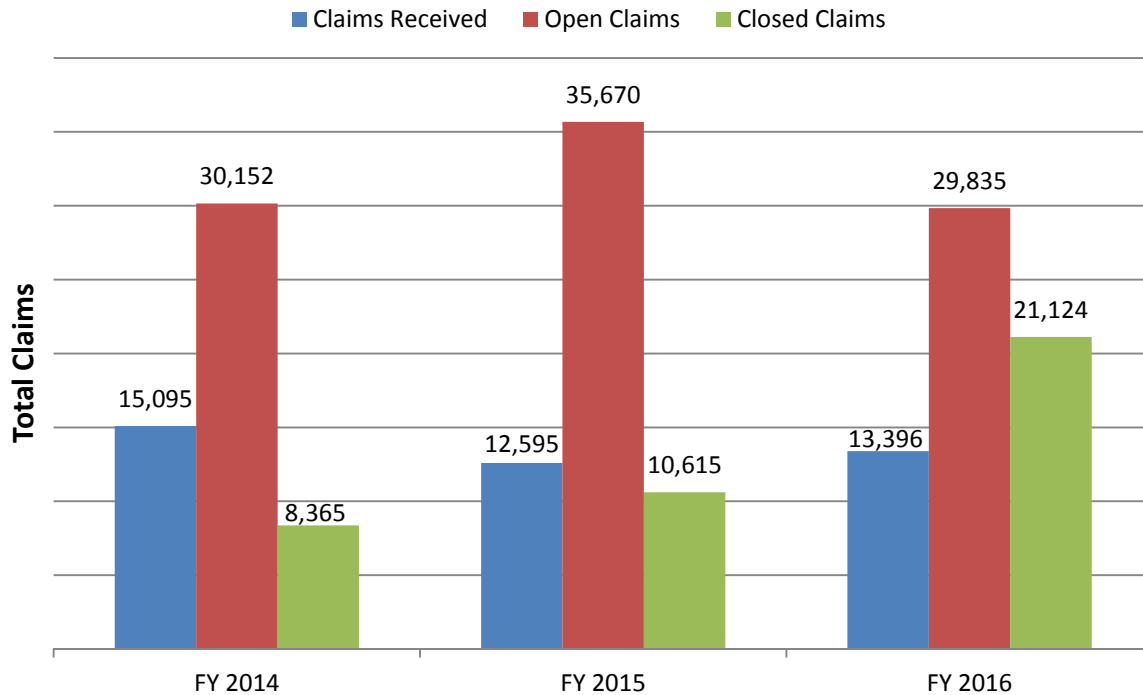
<sup>9</sup> The designation of a claim as a “potential 7623(b) claim” should not be treated as final because it requires speculation, and is contingent on the results of IRS actions that will often not be known for years and ultimately, may or may not reach the \$2 million threshold.

<sup>10</sup> The operating division is not specified for some claims because there may be more than one operating division with responsibility for the issues identified.

## Claims Received, Open, and Closed, Fiscal Years 2014 to 2016

Figure 4 provides current information on claims received, claims remaining open, and claims that were closed in each fiscal year from 2014 to 2016. Figure 4 has been modified to provide a rolling three year schedule of claim activity.

Figure 4: Claims Received, Open, and Closed <sup>11</sup>

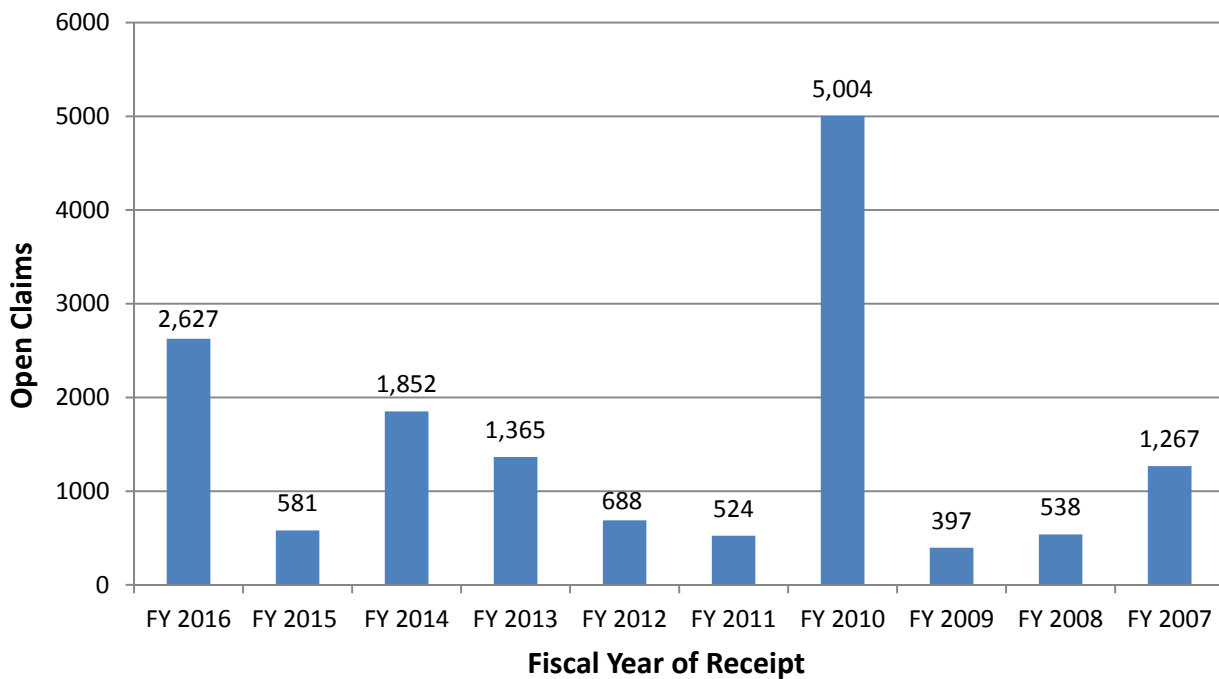


<sup>11</sup> The data presented in this table may not align completely with prior year data reported. As the IRS continues to work a claim and learns more about the characteristics of the claim, the case management information is updated. The data presented in this table is captured as of a certain date and is a snap shot in time. The data is dynamic and changes can occur after the date the data is presented. Closed claims volume in FY 2016 was higher due to the elimination of back-logged inventories.

## Open IRC 7623(b) Claims as of Fiscal Year 2016

Figure 5 shows the number of IRC 7623(b) claims remaining open as of September 30, 2016, by year received. The Whistleblower Office uses information provided by the whistleblower to determine whether a claim has the potential to result in an amount in dispute exceeding the \$2,000,000 threshold for section 7623(b). The designation as potential section 7623(b) claims should not be treated as final because it requires speculation on actions that can take years to complete. Potential section 7623(b) claims are identified during initial review of the whistleblower’s Form 211 submission by the ICE Unit, and then forwarded to subject matter experts (SMEs) in the IRS operating divisions. The SME then determines whether the whistleblower’s information will be provided to field offices for further 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.

**Figure 5: Open IRC 7623(b) Claims since Enactment**



## Processes for Open Section 7623(a) and 7623(b) Claims

Table 3 reflects a summary of current statuses for open section 7623(a) and 7623(b) claims. For FY 2016, the current statuses were organized into processing phases, and the processing phases provide an overview of where each claim is currently situated in the claim’s lifecycle as of September 30, 2016. Historical data analysis has shown that a whistleblower submission typically contains on average three taxpayers, and therefore one Form 211 submission, but three claim numbers. The data shown below for Form 211 submissions and claim numbers is consistent with this analysis.

**Table 3: Status of Open Section 7623(a) & 7623(b) Claims**

Processes <sup>12</sup>	Submissions	Claim Numbers
Intake/Classification 7623(a)	817	1370
7623(b)	32	67
OD Field/Investigation 7623(a)	1,893	3,032
7623(b)	637	3,097
OD Field/Suspense 7623(a)	2,374	6,087
7623(b)	448	9,694
Appeals 7623(a)	187	274
7623(b)	102	248
Preliminary Award Evaluation 7623(a)	237	284
7623(b)	79	228
Interim Award Assessment 7623(a)	141	193
7623(b)	166	293
Award/Suspense 7623(a)	2,982	3,684
7623(b)	222	1,116
Final Review 7623(a)	9	18
7623(b)	33	62
Litigation <sup>13</sup> 7623(a)	9	49
7623(b)	20	39
<b>Total</b>	<b>10,388</b>	<b>29,835</b>

NOTE: Data reported as of September 30, 2016

<sup>12</sup> Please refer to the “Glossary of Terms” for a complete description of the processing phases outlined under the “Processes” listed in Table 3.

<sup>13</sup> There are an additional 215 claims which are currently in litigation. Table 3, however, identifies only open claims, and the 215 claims closed prior to litigation.



## Closure Reasons for Fiscal Year 2016

In FY 2016, the Whistleblower Office closed 21,124 claims, a 99 percent increase from FY 2015 closures. Claims received in FY 2016 and FY 2015 accounted for 73 percent of total closures in FY 2016. The four most common factors for closures were:

- Rejected claims with either a non-specific, non-credible, or speculative allegation.
- The issues were below the threshold for IRS action.
- Claims denied due to examination or whistleblower issues which were a “no change,” or no “Title 26 Collected Proceeds.”
- The information was already known to the IRS, lack of resources to pursue a claim, or due to a survey (no tax effects.)

Additional items of interest regarding the various reasons for closure are listed below.

- At times there may be multiple closure reasons associated with a claim.
- When a submission identifies multiple taxpayers, different closure reasons could apply to different taxpayers, based on the results of IRS actions regarding each taxpayer. For example, there may be an award paid with respect to one taxpayer and a denial due to a “no change” result with respect to another.
- The closure 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 only when the IRS proceeds based on the information provided by the whistleblower. When the information provided by the whistleblower has no relevance to the assessments, the claim is denied and the closure reason applied is “Claim Denied - Whistleblower Issues Was “No Change.”

Table 4 provides a summary of the closure reasons for closures that occurred during FY 2016. The data was grouped into similar categories and is displayed as a percentage of the total closures.

**Table 4: FY 2016 Closure Reasons, All Closures from Any Year of Receipt**

Closure Reasons	Total Closures	Percent of Total Closures	Average Number of Days from Receipt to Closure	Maximum Number of Days from Receipt to Closure
Claim Rejected - Allegations are not Specific, Credible, or are Speculative in Nature	12,395	59%	418	3,440
Claim Denied - Issues Below Threshold for IRS Action	2,413	11%	488	8,142
Claim Denied - Examination Result Was "No Change" or Whistleblower Issues Was "No Change," or no Title 26 Collected Proceeds	1,443	7%	1,494	6,876
Claim Denied - Information Already Known, or Lack of Resources, or Survey Other	1,372	6%	1,276	6,584
Closed – Other (Used as a General Closure That Does Not Fall Within One of The Specific Closure Reasons)	999	5%	1,329	7,669
Claim Denied - Insufficient Time Remaining on Statute of Limitations or Statute Expired Before Form 211 Submission	959	5%	697	6,547
Award Paid in Full in 2016	761	4%	2,792	8,298
Claim Rejected - Failure to File Form 211, or Sign Form 211 Under Penalties of Perjury, or Incomplete Form 211	483	2%	447	4,379
Claim Denied - No Collected Proceeds (Uncollectible)	133	Less than 1%	1,879	9,019
Anonymous Referred to 3949-A Program	110	Less than 1%	138	254
Administrative Error – (Duplicate Records Created in Error)	43	Less than 1%	1,442	3,276
Claim Rejected - Ineligible Whistleblower	13	Less than 1%	726	3,690
<b>Total Closures<sup>14</sup></b>	<b>21,124</b>	<b>100%</b>		

<sup>14</sup> Closed claims volume in FY 2016 was higher due to the elimination of back-logged inventories.

## Glossary of Terms

<b>Appeals</b>	This process involves the current status on claims in which the taxpayer has sought review by the IRS appeals function.
<b>Award/Suspense</b>	Similar to OD Field/Suspense, this process includes cases which have been suspended, cases awaiting collection action, and cases in which the payment has been received but is awaiting the expiration of the statute of limitations on the taxpayer's claim for refund.
<b>Final Review</b>	The Final Evaluation process includes Award Recommendation Memos and letters for rejections and denials, which have been approved, or are awaiting approval from management.
<b>Intake/Classification</b>	The Intake/Classification process includes claims submitted to the Initial Claim Evaluation (ICE) Unit for review and analysis. The ICE Unit builds the claims, and the claims are then sent to classification for further review. The primary function of this process is to determine which claims require additional review from the Whistleblower Office or the Operating Division (OD). This process includes claims which have no current status, claims which require additional information, incomplete claims, new claims, and claims awaiting initial review by classification, claims reviewed by classification, and the claims sent out for OD classification.
<b>Interim Award Assessment</b>	The Award process includes the review of all claims which have been returned from the OD's that require additional review. The current statuses in this process include approvals for award percentages, award evaluations, final award approval, final award processing, Form 11369 award recommendation and coordination review, reviewing the results of the OD's to determine whether sufficient information exists to make an award decision, managerial PARL approval, and the review pending rejection and denial letters.
<b>Litigation</b>	The Litigation process includes the current status for claims in which the whistleblower has sought litigation regarding an award determination made on the whistleblower's Form 211.
<b>OD Field/Investigation</b>	The OD Field/Investigation process includes claims sent to the various OD's for investigation after classification's review. The current statuses included in this process are claims under OD Field Examination, claims being reviewed by the OD's Subject Matter Experts, and claims under initial review by the Criminal Investigation Division prior to accepting the claim for investigation.
<b>OD Field/Suspense</b>	Claims submitted often include multiple taxpayers, potential related taxpayers, and claims which might fall under the Tax Equity and Fiscal Responsibility Act (TEFRA). The OD Field/Suspense process includes claims which are currently awaiting the closure of an associated claim, in order for all of the claims to be closed out simultaneously. This process includes the current status for claims in which the case is suspended because the OD is evaluating a bulk claim involving a large number of taxpayers, or the claim still has related claims in process, or the claims are awaiting the resolution of a TEFRA key case.
<b>Preliminary Award Evaluation</b>	The Preliminary Award Evaluation process involves claims with current statuses including administrative proceedings for either rejections or denials, or for Preliminary Award Recommendation Letters (PARL).