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Whistleblower Office FY2020 Annual Report: p5241--2020-12-00.pdf

Whistleblower Office FY2019 Annual Report: p5241--2020-02-00.pdf



Whistleblower Program

Fiscal Year 2019

Annual Report to Congress

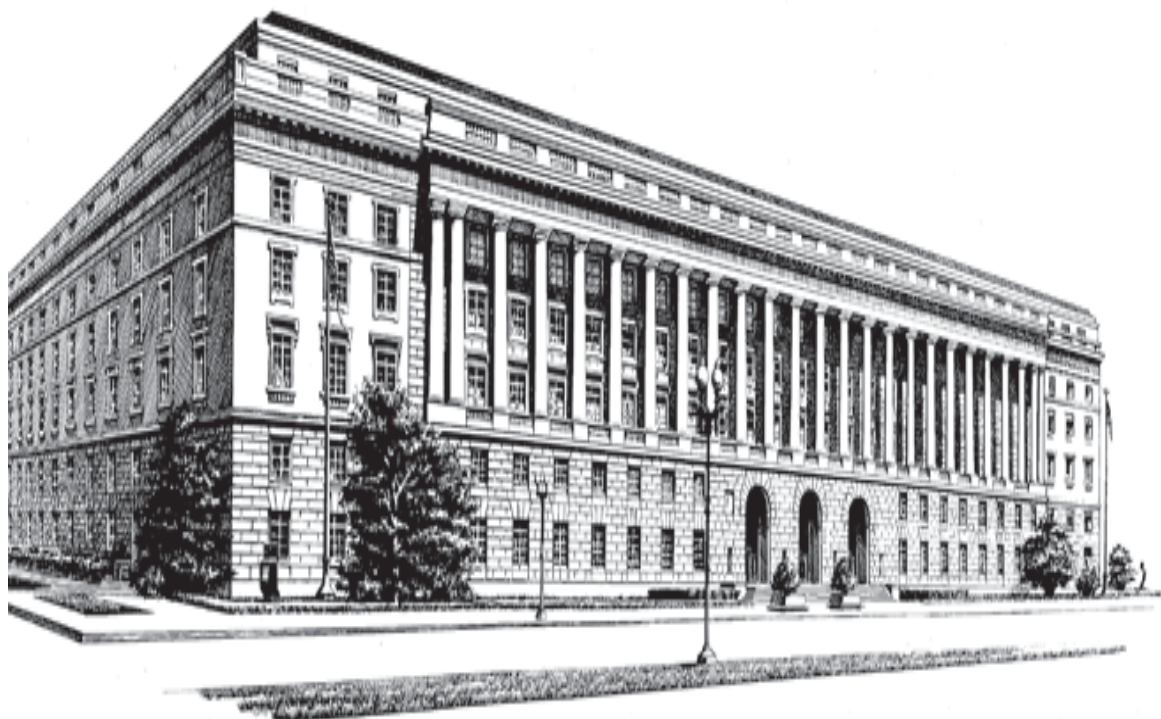


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*Revised Figure 2 February 3, 2020.

Message from the Director


For a second year in a row, statutory changes have resulted in massive operational changes for the Whistleblower Office and to the Whistleblower Program. Following adjustments to operations resulting from the passage of Section 41108 of the Bipartisan Budget Act of 2018 (BBA 2018), effective July 1, 2019, the Taxpayer First Act of 2019 (TFA 2019) added, to IRC § 7623, several important provisions that would help improve taxpayer service, ensure the continual enforcement of the tax laws in a fair and impartial manner, and ultimately support the continued success of our nation. The new law also extends greater employment protections for whistleblowers against retaliation.

In general, under TFA 2019, the Whistleblower Office shall now disclose to individuals providing information related to any purpose described in paragraph (1) or (2) of section 7623(a), whether the IRS referred the information for audit or examination; whether a payment of tax was made with respect to an issue raised by the whistleblower; and upon written request, provide information on the status and stage of any investigation or action related to such information and in the case of a determination of the amount of any award under section 7623(b), the reason for such determination. We are actively engaged in adjustments to operations to meet the mandatory whistleblower requirements outlined in the TFA 2019.

Overall this year, the Whistleblower Office made 181 awards to whistleblowers totaling \$120,305,278 (before sequestration), which includes 24 awards under IRC § 7623(b). Proceeds collected were \$616,773,127. Included in the proceeds collected, as a result of § 7623(c), are the non-Title 26 amounts collected for criminal fines, civil forfeitures, and violations of reporting requirements amounting to \$110,003,100. Title 26 amounts collected were \$506,770,027. Whistleblower claim numbers assigned in FY 2019 decreased by 7.3 percent from those submitted in FY 2018, and closures increased by 29.8 percent.

In FY 2018, we provided readers new information in Table 2B to address a question that was frequently asked about the number of claims referred to Examination. This year, I have included a new chart, Figure 4B showing for the first time, the number of whistleblowers by geographic regions. An interesting factoid from Figure 4B is there are 282 whistleblowers from foreign regions. The number may or may not surprise you. Either way it demonstrates the Program's reach internationally.

In closing, the Whistleblower Office continues to encourage all individuals with specific and credible information about tax noncompliance 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, Whistleblower Office



In FY 2019, the Whistleblower Office made awards to whistleblowers exceeding \$120 Million and collected \$616.8 Million.

Background and Program Evolution

The Tax Relief and Health Care Act (TRHCA 2006) added IRC § 7623(b), which enacted significant changes in the Internal Revenue Service (IRS) award program for whistleblowers. TRHCA set a new framework for the consideration of whistleblower submissions and established the Whistleblower Office within the IRS to administer that framework. The TRHCA 2006 requires that the Secretary of the Treasury conduct an annual study and report to Congress on the use of IRC § 7623. The annual study and report to Congress includes any legislative or administrative recommendations for IRC § 7623 and its application. This report discusses the IRS Whistleblower Program activities for FY 2019 in satisfaction of the reporting obligations under the TRHCA 2006.

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

- Signed and submitted under penalties of perjury,
- Related to an action in which the proceeds in dispute exceed \$2,000,000, and
- Related 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 proceeds, the IRS will pay an award of at least 15 percent, but not more than 30 percent, of the proceeds. 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 tax law violations. Whistleblowers may appeal the Whistleblower Office's award determinations under IRC § 7623(b) to the United States Tax Court (Tax Court).

The IRS pays awards from proceeds, and as such, award payments cannot be made until the taxpayer has exhausted all appeal rights and the taxpayer no longer can file a claim for refund or otherwise seek to recover the proceeds from the government. Therefore, the IRS generally cannot make award payments for several years after the whistleblower has filed a claim.

On February 9, 2018, Section 41108 of the BBA 2018 amended IRC § 7623 by adding a new subsection (c): Proceeds—For purposes of this section, the term 'proceeds' includes—(1) penalties, interest, additions to tax, and additional amounts provided under the internal revenue laws, and (2) any proceeds arising from laws for which the Internal Revenue Service is authorized to administer, enforce, or investigate, including—(A) criminal fines and civil forfeitures, and (B) violations of reporting requirements.

On July 1, 2019, Section 1405(a) of the TFA 2019 added to IRC § 7623 several important provisions to help improve taxpayer service, to ensure the continual enforcement of the tax laws in a fair and impartial manner, and to ultimately support the continued success of our nation. The new law extends greater employment protections for whistleblowers against retaliation.

Also, the Whistleblower Office will now notify the whistleblower when a case for which the whistleblower has provided information has been referred for audit or examination. The Whistleblower Office will also notify the whistleblower when the taxpayer the whistleblower identified has made a tax payment with respect to which the whistleblower's information relates. In addition, the whistleblower can submit a written request for information on the status and stage, or action related to such information; and reason for an award determination on the amount of any award made under IRC § 7623(b), for the correlating whistleblower claim.

Program Developments

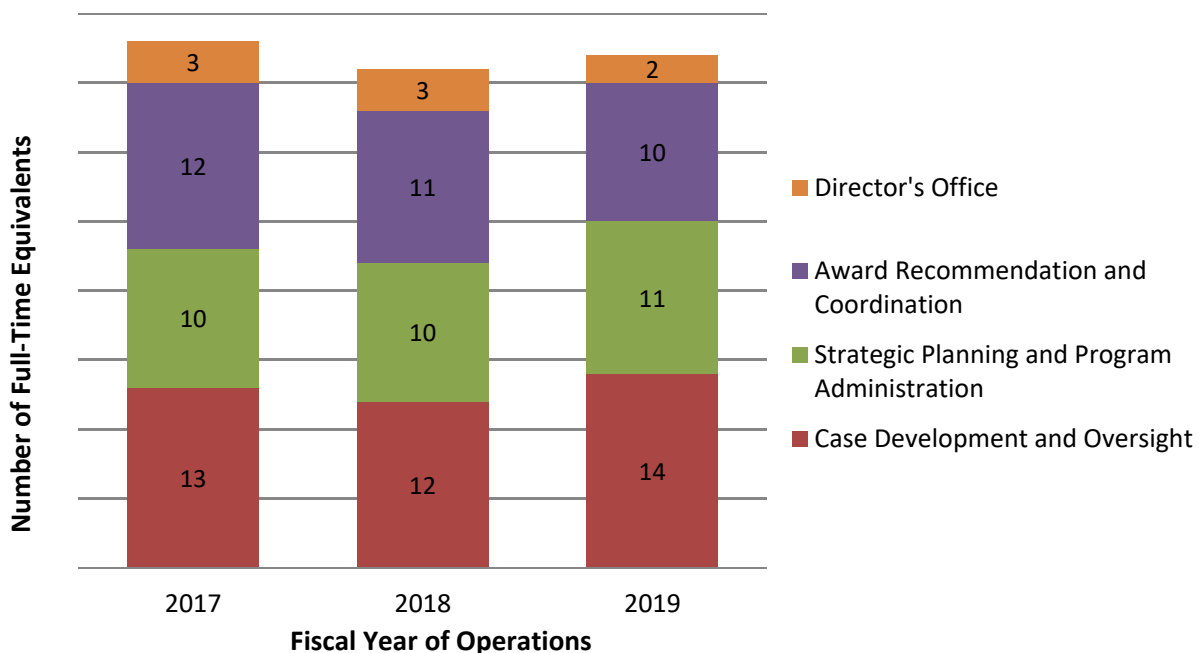
Operations

During FY 2018, the Government Accountability Office (GAO) completed an audit of the Whistleblower Office with one outstanding recommendation remaining at the beginning of FY 2019. The recommendation was to modify the Form 11369, Confidential Evaluation Report on Claim for Award, which documents how whistleblower information was used in any IRS actions taken, regardless of whether the laws administered, examined, or enforced are outside of Title 26, such as FBAR penalties. The Whistleblower Office both modified and published the Form 11369 in FY 2019, completing the final GAO recommendation.

Staffing

In FY 2019, the Whistleblower Office staff was comprised of 37 full time employees with decades of experience in a broad array of IRS compliance programs.

Figure 1: Whistleblower Office Staffing, Fiscal Years 2017 to 2019



Outreach and Communications

The Whistleblower Office maintains a page on the IRS Intranet 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,¹ that provides information for the public about the Whistleblower Program. The website includes links to the final regulations, the Form 211, and 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.

The Whistleblower Office has continued its outreach efforts utilizing IRS social media accounts, as well as publicly subscribed newsletters. The Whistleblower Office continues to utilize Twitter, @IRSNews, @IRStaxpros, and the E-Tax Professionals Newsletter that continues to garner many views. The Whistleblower Office also shares relevant information regularly with stakeholders through its listserv.

Whistleblower Office representatives made presentations to professional groups and attended conferences representing taxpayers and whistleblowers. By attending these functions, the Whistleblower Office obtains an outside perspective on the Whistleblower Program. The Whistleblower Office also provided consultation to other federal agencies and tax administration authorities from other nations, as they evaluated options for establishing their own whistleblower award programs.

Administrative Priorities and Issues

Administrative Guidance

In FY 2019, the Whistleblower Office published significant updates to the procedures for IRS employees responsible for handling whistleblower claims and information. Many of these updates address the BBA 2018 amendments to IRC § 7623, which expanded the scope of proceeds for award purposes to include non-Title 26 amounts, which includes criminal fines, civil forfeitures, and violations of reporting requirements involving cases where the Report of Foreign Bank and Financial Accounts (FBAR) penalties were assessed. For example, during FY 2019, the Whistleblower Office updated and published Form 11369 and its Instructions.

The TFA 2019 amended IRC § 7623 to provide statutory protections from retaliation to IRS whistleblowers, and amended IRC § 6103 to specify the Service's authority to disclose return information to whistleblowers during investigations and to provide for additional mandatory administrative disclosures to whistleblowers regarding cases for which they have supplied information. To implement the amendments mandating certain administrative disclosures, the Whistleblower Office revised its procedures to send the notices that are required when a case for which the whistleblower has provided information has been referred for audit or examination. The Whistleblower Office will also notify the whistleblower when the taxpayer the whistleblower identified has made a tax payment with respect to which the whistleblower's information relates. In addition, the whistleblower can submit a written request for information on the status and stage, or action related to such information; and reason for an award determination on the amount of any award made under IRC § 7623(b), for the correlating whistleblower claim.

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. IRC § 6103 provides authority for the IRS to disclose taxpayer information to whistleblowers in certain, limited instances. The enactment of the TFA 2019 addressed some of the circumstances in which most disclosures to whistleblowers arise. In particular, the new provisions addressed the Whistleblower Office's concerns regarding disclosures made to whistleblowers in order for agents to obtain

¹ <https://www.irs.gov/compliance/whistleblower-informant-award>

information during investigations and examinations. IRC § 6103(k)(13)(A) now allows for such disclosures to be made specifically to whistleblowers, and other amendments subject whistleblowers who receive such information to section 6103's general prohibitions on disclosure, and to criminal sanction if they re-disclose information provided to them in violation of section 6103.

Despite the new provisions in the TFA 2019, additional taxpayer protections remain necessary with respect to many disclosures made during the administrative award determination process and resulting appeals to the Tax Court. In addition to the mandatory and discretionary disclosures required by the new IRC § 6103(k)(13)(B), the IRS makes, and will continue to make, many disclosures in the administrative proceeding and before the Tax Court pursuant to the authority of IRC § 6103(h)(4). Recipients of disclosures under 6103(h)(4) are not bound by any prohibition on re-disclosure under 6103 and are not subject to potential civil or criminal penalties for unauthorized disclosure. Out of an abundance of concern for taxpayer confidentiality, the IRS takes the extra measures of requiring confidentiality agreements and asking the Tax Court to issue protective orders to limit the ability of whistleblowers to re-disclose return information that is provided to a whistleblower under the authority of IRC § 6103(h)(4). The effectiveness of these tools is limited. The IRS has no legal authority to impose any restraint on whistleblowers re-disclosing return information following the completion of the administrative and judicial processes. The absence of such protections has become more relevant in the context of extensive discovery requests for taxpayer examination files during Tax Court proceedings. Notably, the taxpayer is not a party to the whistleblower litigation, and as such, the taxpayer typically has no knowledge that its confidential returns and return information may be disclosed to the whistleblower and thus, no impetus to intervene in order to ensure its information is protected. Further, in some cases the Tax Court has taken an expansive view of the scope of disclosures allowed under IRC § 6103(h)(4). Whistleblowers with no relationship whatsoever to the taxpayers with respect to whom they've provided information have attempted to gain access to large swaths of those taxpayers' returns and return information merely by having claims denied by the Whistleblower Office and then pursuing discovery during an appeal to the Tax Court.

2. Statutory clarification needed on submitting information and claiming awards.

IRC § 7623 provides for awards, in some cases mandatory, when the IRS proceeds with an action based on a whistleblower's information. The mandatory award provisions require that information be submitted under penalty of perjury. Separately, IRC § 7623(b)(3) refers to a "claim for award" without providing any further specifics. The Whistleblower Office understands the statute to require a whistleblower to submit the claim for award, like the information, before the IRS proceeds with an action. While information comes into the IRS from a variety of sources, relatively few individuals that provide information to the IRS do so with the intent to claim an award. The claim for award is the only trigger available to the Whistleblower Office for classifying an individual as a whistleblower for purposes of IRC § 7623. The claim for award also allows the Whistleblower Office to contemporaneously track the IRS's use of whistleblower information, and proactively manage the Whistleblower Program. Clarifying the statutory claim filing requirement would strengthen the Program by ensuring that Whistleblower Office resources are devoted to filed claims.

Whistleblower Program Results

Under IRC § 6103, returns and return information are confidential, unless an exception applies. There is no exception in IRC § 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 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 2017 to 2019

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 amounts of awards paid each year can vary significantly, especially when a small number of high-dollar claims are resolved in a single year. The year in which an award is paid is generally not the year in which collections occurred because the IRS must wait until there is a final determination of proceeds, which means that the taxpayer has exhausted all appeal rights and the taxpayer no longer can file a claim for refund or otherwise seek to recover the proceeds from the government.

In March 2013, the Office of Management and Budget 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 applicable sequestration reduction may change from year-to-year. As applied to payments under IRC § 7623, the required reductions in FY 2019 were 6.2 percent of the amount that would otherwise have been payable. Sequestration reductions totaling \$7,458,927 were applied to awards paid during FY 2019.

Since 2007, the Whistleblower Office made awards in the amount of \$931.7 million based on the collection of \$5.7 billion. In FY 2019, the IRS made 181 awards, totaling \$120,305,278 prior to the sequestration reduction; the total award amount represents 19.5% of total amounts collected. In FY 2019, 24 of the award payments made involved IRC § 7623(b) claims.

In some cases, individuals submit multiple claims relating to the same information. In other cases, as the Tax Court has noted, whistleblowers submit numerous claims based entirely on publicly available information—some whistleblowers have submitted hundreds of such claims. To date, the Whistleblower Office has sought to process and respond to all claims filed by whistleblowers. While it will continue to do so, the Whistleblower Office will also continue to look for ways to address duplicative or non-meritorious claims in a summary fashion, both to focus its administrative resources better and to guard against the unnecessary or inadvertent disclosure of confidential taxpayer return information.

Table 1: Amounts Collected and Awards under IRC § 7623, Fiscal Years 2017 to 2019

	FY 2017	FY 2018	FY 2019
Total Claims Related to Awards	367	423	510
Total Number of Awards	242	217	181
Total IRC § 7623(b) Awards	27	31	24
Total Amounts of Awards²	\$33,979,873	\$312,207,590	\$120,305,278
Proceeds Collected	\$190,583,750	\$1,441,255,859	\$616,773,127
Awards as a Percentage of Proceeds Collected	17.8%	21.7%	19.5%

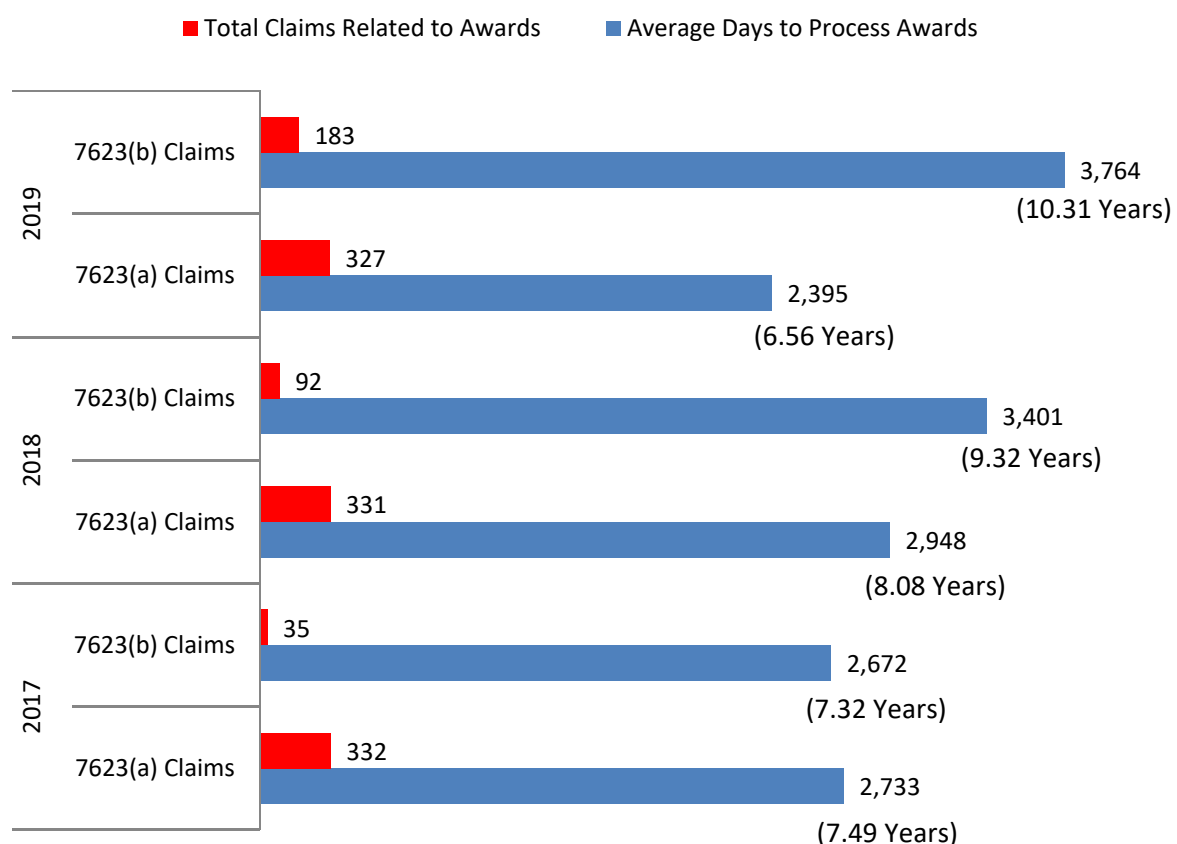
NOTE: Data reported as of September 30, 2019.

² "Total Amount of Awards" is prior to the sequestration reduction.

Total Claims Related to Awards and Average Days to Process Awards, Fiscal Years 2017 to 2019

Figure 2 provides the average processing days for award claims paid under IRC § 7623(a) and 7623(b). Generally, the IRS does not pay awards for at least eight years after the whistleblower has filed a claim because a payment cannot be made until there is a final determination of proceeds. This is consistent with information provided to whistleblowers that awards may not be paid until several years after receipt of the claim.

Figure 2: Total Claims Related to Awards³ and Average Days to Process Awards by Claim Type, Fiscal Years 2017 to 2019

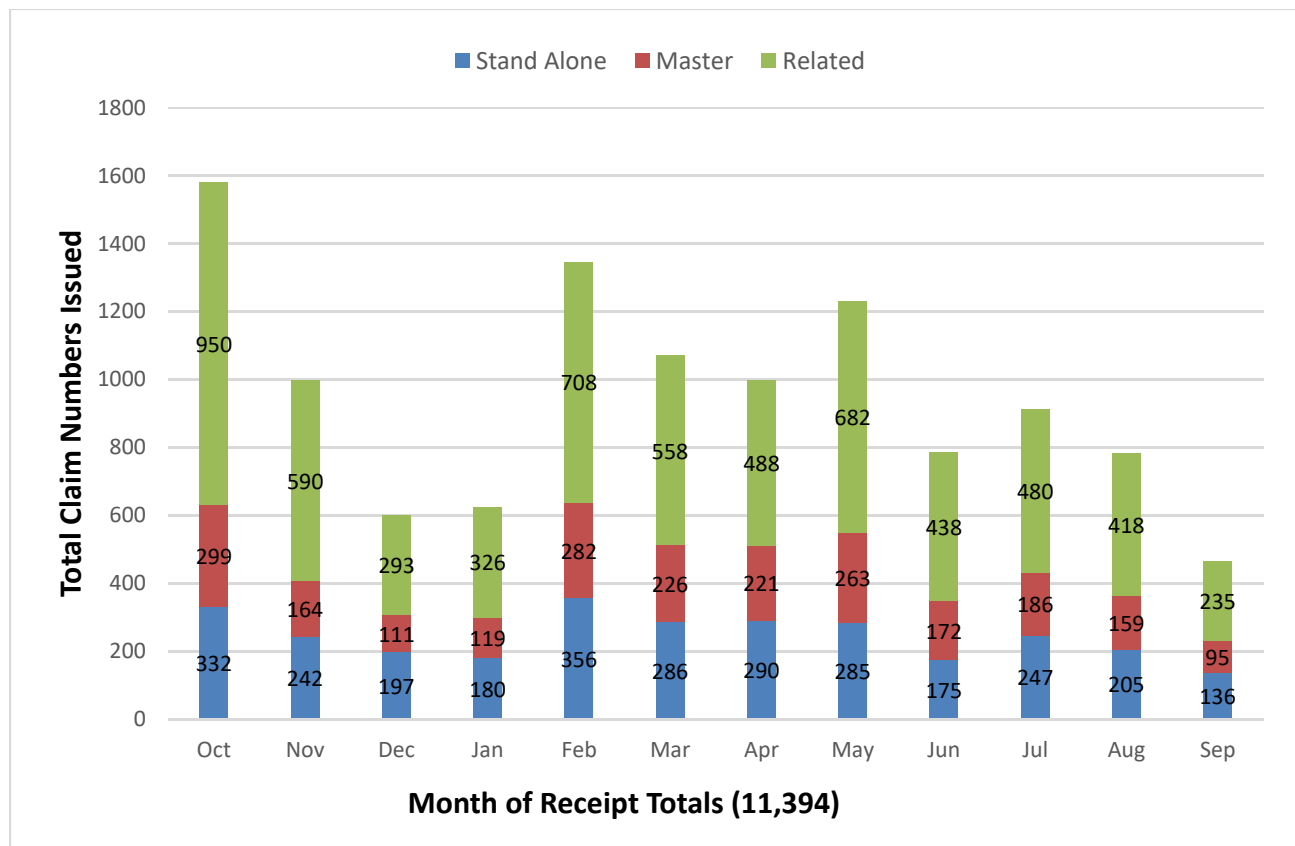


³ Figure 2 only reflects claims paid in full as of September 30, 2019. The revisions made were to historical information for the "Years" calculations label for FY 2017 and FY 2018. The Total Claims Related to Awards and Average Days to Process Awards for all three fiscal years remained unchanged.

Total Stand-Alone, Master, and Related Claim Numbers by Month in Fiscal Year 2019

Figure 3 identifies trends and fluctuations as they pertain to Form 211 submissions to the Whistleblower Office and claim numbers issued each month in FY 2019. Figure 3 identifies the submissions as stand-alone, master, and related claim numbers. Stand-alone claim numbers are defined as submissions identifying one taxpayer. Generally, multiple claim numbers are assigned when the claim submission identifies multiple taxpayers. When multiple taxpayers are identified, the claim is then subsequently identified by a master claim number, with related claim numbers. For each master claim number identified below, there are at least two related claim numbers.

Figure 3: Total Claim Numbers Issued by Month in Fiscal Year 2019



Fiscal Year 2019 Receipts, by Operating Division

Table 2(A) below provides additional information on submissions received in FY 2019. This table identifies the IRS operating divisions to which 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 (LB&I) Division, while matters involving businesses and individuals that do not meet that threshold are generally assigned to Small Business and Self-Employed (SB/SE) Division. Claims involving pension plans, exempt organizations, or governmental entities are referred to Tax Exempt and Government Entities (TE/GE) Division. A claim initially assigned to LB&I, SB/SE, or TE/GE may be referred to Criminal Investigation (CI) Division if the operating division's development of the case reveals a potential criminal violation. The Whistleblower Office also makes direct referrals to CI, such as cases where the allegations relate to illegal source income or other matters where development by a civil operating division would be unnecessary or inappropriate.

The table also identifies the claim types. Claims listed as IRC § 7623(b) include any claim that appears to have the potential to exceed the \$2 million threshold under IRC § 7623(b)(5)(B), with all others classified as IRC § 7623(a) claims.

Table 2(A): Fiscal Year 2019 Receipts, by Operating Division

		Claim Type ⁴		
Operating Division		7623(a)	7623(b)	Total
CI	Submissions	38	42	80
	Claim Numbers	124	193	317
LB&I	Submissions	294	99	393
	Claim Numbers	998	248	1,246
SB/SE	Submissions	3,515	173	3,688
	Claim Numbers	8,677	579	9,256
TE/GE	Submissions	191	55	246
	Claim Numbers	395	172	567
Not Specified ⁵	Submissions	8	-	8
	Claim Numbers	8	-	8
Total Submissions		4,046	369	4,415
Total Claim Numbers		10,202	1,192	11,394

NOTE: Data reported as of September 30, 2019.

⁴ The designation of a claim as a potential IRC § 7623(b) claim should not be treated as final 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.

⁵ The Operating Division is not specified for some claims because there may be more than one with responsibility for the issues identified, or the claim may be incomplete.

Receipts Selected by Operating Divisions for Referral to Examination in Fiscal Year 2019

Table 2(B) shows the percentage of the claims selected by the Operating Divisions for referral to field examination as of September 30, 2019.

Table 2(B): Receipts Selected by Operating Divisions for Referral to Examination in FY 2019

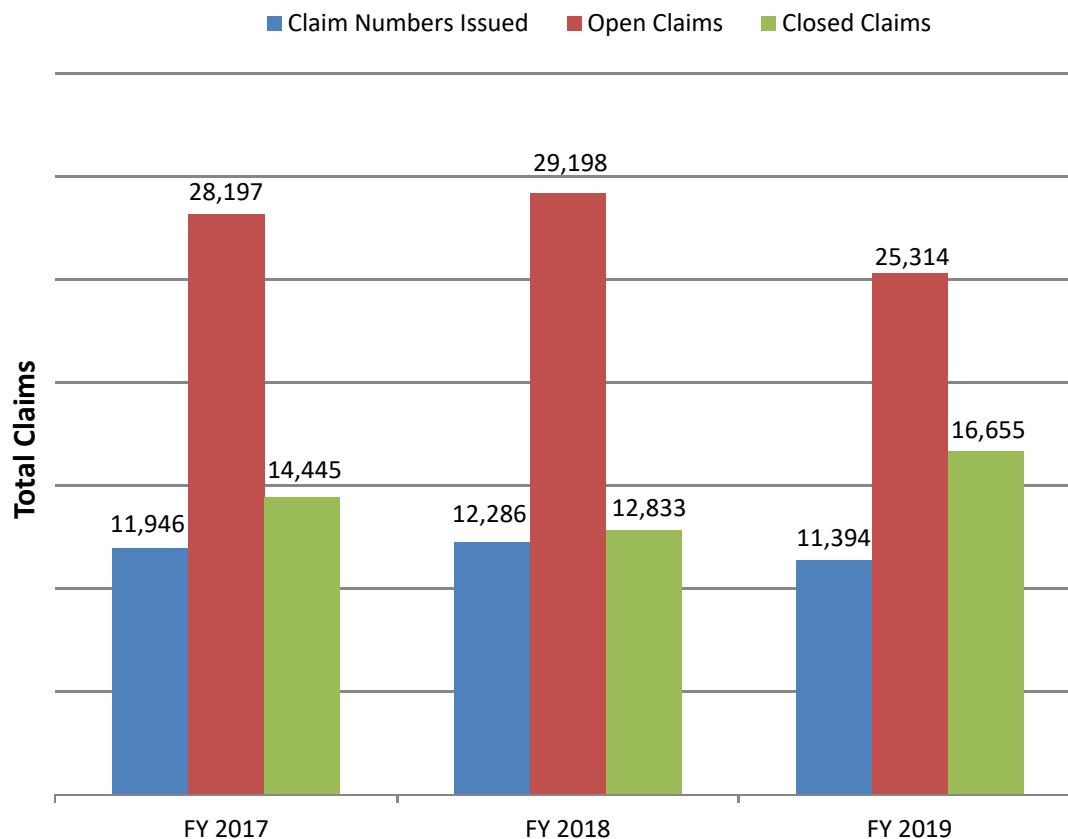
Operating Division	Claim Type	Receipts	Total Receipts Sent to Field	Percentage of Total Receipts Sent to Field
CI	7623(a)	124	50	40.32%
	7623(b)	193	182	94.30%
LB&I	7623(a)	998	28	2.81%
	7623(b)	248	51	20.56%
SB/SE	7623(a)	8,677	717	8.26%
	7623(b)	579	95	16.41%
TE/GE	7623(a)	395	11	2.78%
	7623(b)	172	5	2.91%
Not Specified ⁶	7623(a)	8	-	0.00%
	7623(b)	-	-	0.00%
Total		11,394	1,139	10.00%

⁶ The Operating Division is not specified for some claims because there may be more than one with responsibility for the issues identified, or the claim may be incomplete.

Claim Numbers Issued, Open, and Closed, Fiscal Years 2017 to 2019

Figure 4(A) provides information on claim numbers issued, claims remaining open, and claims that were closed in each fiscal year from 2017 to 2019.

Figure 4(A): Claim Numbers Issued, Open, and Closed ⁷

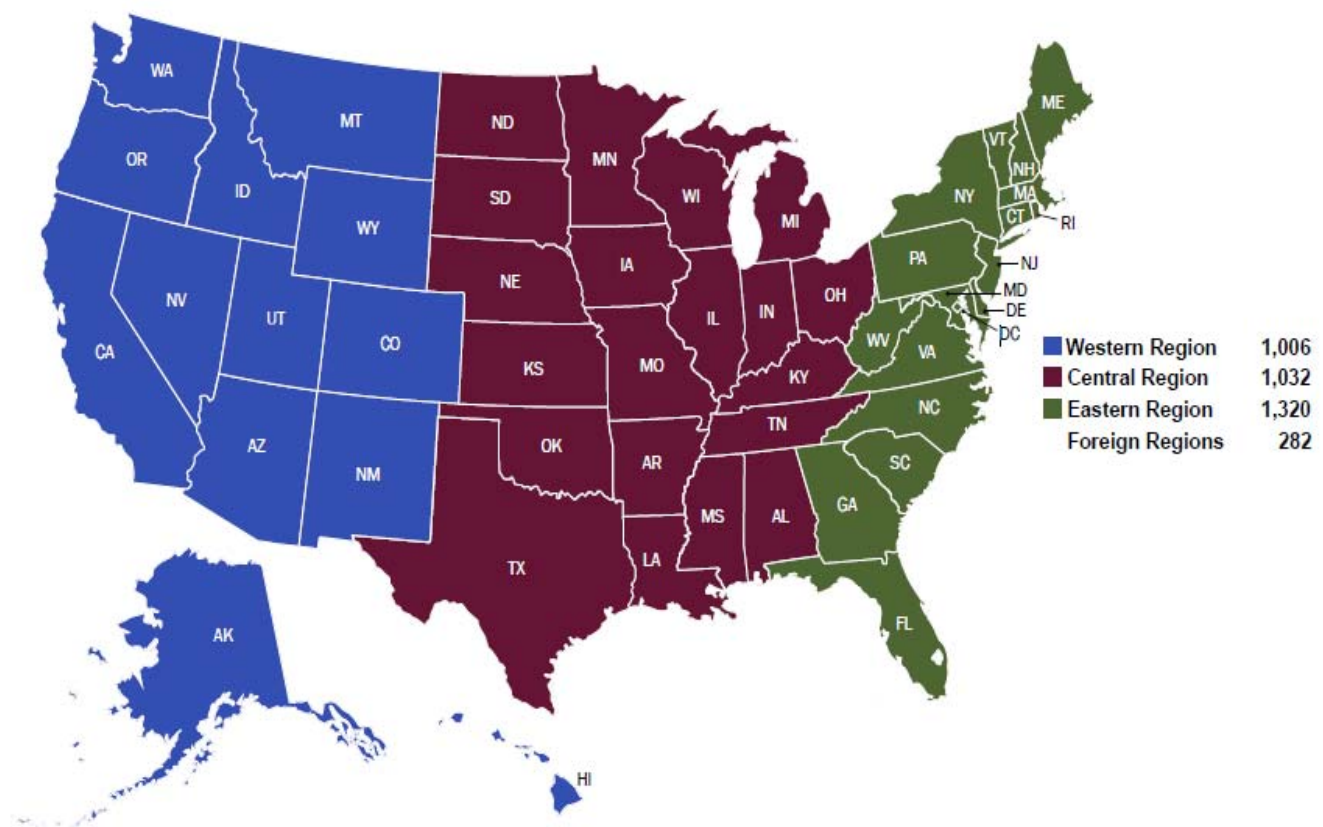


⁷ The data presented in this table is captured as of a certain date and is a snapshot in time.

Whistleblowers by Geographic Region Fiscal Year 2019

Figure 4(B) shows the geographic location of all whistleblowers by region in fiscal year 2019. The regions consist of the Western, Central, Eastern, and Foreign geographic locations. The data counts a distinct whistleblower only one time, regardless of whether the whistleblower submitted numerous claims throughout the fiscal year or filed a claim in conjunction with other whistleblowers.

Figure 4(B): Number of Whistleblowers by Geographic Region⁸

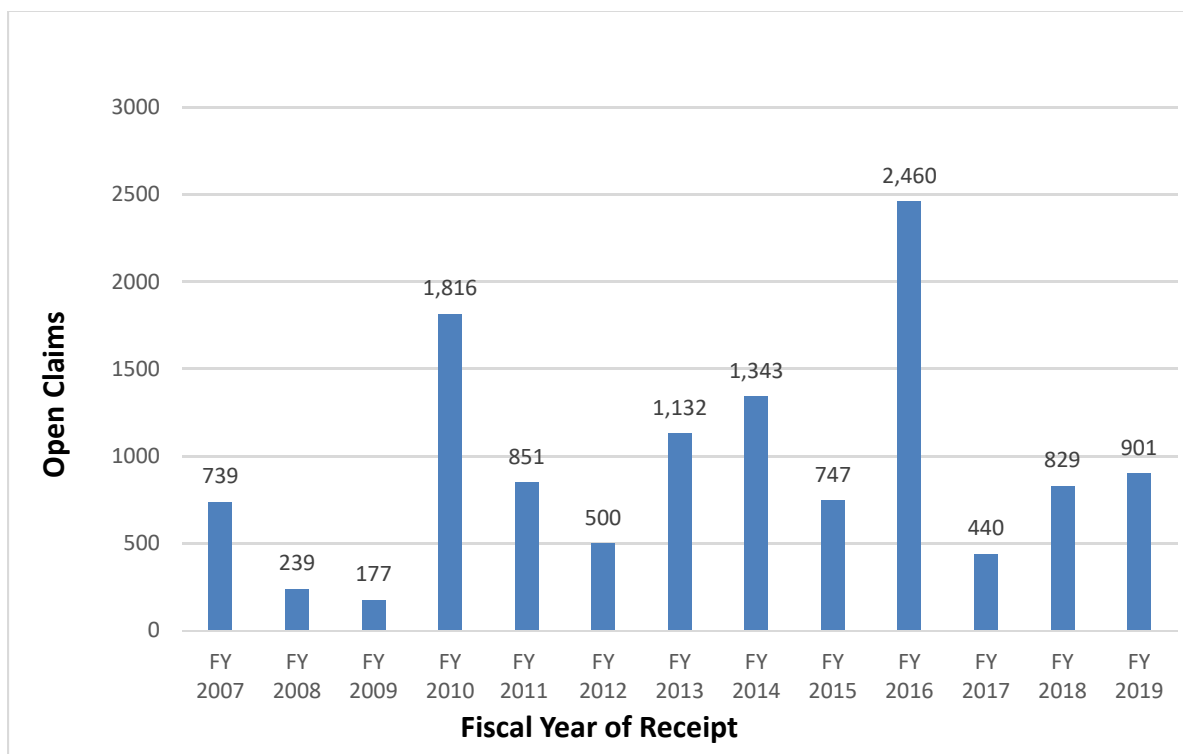


⁸ The U.S. Virgin Islands and Puerto Rico are included in the Eastern Region.

Open IRC § 7623(b) Claims as of Fiscal Year 2019

Figure 5 shows the number of IRC § 7623(b) claims remaining open as of September 30, 2019, by year received. The Whistleblower Office uses information provided by the whistleblower to determine whether a claim has the potential to result in proceeds in dispute exceeding the \$2,000,000 threshold for IRC § 7623(b). The designation as a potential IRC § 7623(b) claim is not treated as final. The Initial Claim Evaluation (ICE) Unit conducts an initial review of the whistleblower's Form 211 submission to identify potential IRC § 7623(b) claims. ICE then forwards the potential claims 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 IRC § 7623(a) and § 7623(b) Claims

Table 3 reflects a summary of statuses for open IRC § 7623(a) and § 7623(b) claims. For FY 2019, the statuses were organized into processing phases that provide an overview of where each claim is situated in the claim's lifecycle as of September 30, 2019.

Table 3: Status of Open IRC § 7623(a) & § 7623(b) Claims

Processes ⁹	Claim Numbers
Intake/Classification 7623(a)	1,020
7623(b)	284
OD Field/Investigation 7623(a)	2,374
7623(b)	2,941
OD Field/Suspense 7623(a)	5,340
7623(b)	7,141
Appeals 7623(a)	228
7623(b)	294
Preliminary Award Evaluation 7623(a)	181
7623(b)	104
Interim Award Assessment 7623(a)	439
7623(b)	174
Collection/Suspense 7623(a)	3,166
7623(b)	586
Award/Suspense 7623(a)	340
7623(b)	565
Final Review 7623(a)	7
7623(b)	2
Litigation ¹⁰ 7623(a)	45
7623(b)	83
Total	25,314

NOTE: Data reported as of September 30, 2019.

⁹ Refer to the "Glossary of Terms" for a complete description of the processing phases outlined under the "Processes" listed Table 3.

¹⁰ There are closed claims that are in litigation. Table 3 identifies only open claims.

Description of Processing Phases

Intake/Classification	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 the OD's classification function for further review. The primary function of this process is to determine which claims require additional review from the Whistleblower Office or the ODs. This process includes claims which have no current status, claims which require additional information, incomplete claims, new claims, and claims awaiting classification.
OD Field/Investigation	OD Field/Investigation process includes claims sent to the various ODs 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.
OD Field/Suspense	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 awaiting the closure of an associated claim, to allow all claims to be closed out simultaneously. This process includes the 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.
Appeals	This process involves the status on claims in which the taxpayer has sought review by the IRS appeals function or the courts.
Preliminary Award Evaluation	Preliminary Award Evaluation process involves claims with current statuses including administrative proceedings for either rejections or denials, or for Preliminary Award Recommendation Letters (PARL).
Interim Award Assessment	This process includes the review of all claims which have been returned from the ODs 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 ODs to determine whether sufficient information exists to make an award decision, managerial PARL approval, and the review of pending rejection and denial letters.
Collection/Suspense	Collection/Suspense process involves the monitoring of tax accounts associated with claims for payment of the deficiencies.
Award/Suspense	This process includes cases which have been suspended, and cases in which the payment has been received but is awaiting final determination of proceeds.
Final Review	Final Review process includes Award Recommendation Memoranda and letters for rejections and denials, which have been approved, or are awaiting approval from management.
Litigation	The litigation process includes the claims where the whistleblower has sought litigation regarding an award determination made on the whistleblower's claim.

Closure Reasons for Fiscal Year 2019

In FY 2019, the Whistleblower Office closed 16,655 claims, a 29.8 percent increase from FY 2018 closures. The four most common factors for closures were:

- Rejected claims with a non-specific, non-credible, or speculative allegation.
- Claim was surveyed by the OD. The OD decided not to pursue due to various reasons including but not limited to; the quality of the claim information, enforcement priorities, statute of limitations is too short for enforcement action, and lack of collectability.
- The issues were below the threshold for IRS action.
- Claims denied due to the examination resulting in a “no change,” or the issues utilizing the information provided by the whistleblower resulted in a “no change.”

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

- 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 taxpayer.
- 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 takes action based on the information provided by the whistleblower. When the information provided by the whistleblower has no relevance to the adjustments, the claim is denied, and the closure reason applied is “Claim Denied - Whistleblower Issue Was ‘No Change’.”

Table 4 provides a summary of the closure reasons for closures that occurred during FY 2019. The data was grouped into similar categories and is displayed as a percentage of the total closures.

Table 4: FY 2019 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
Claim Rejected - Allegations are not Specific, Credible, or are Speculative in Nature	8,524	51%	104
Claim Denied - Surveyed by Operating Division	3,361	20%	3,150
Claim Denied - Issues Below Threshold for IRS Action	1,235	7%	292
Claim Denied - Examination Result Was "No Change" or Whistleblower Issues Was "No Change"	850	5%	2,728
Claim Rejected - No Tax Issue	614	4%	52
Claim Denied - Insufficient Time Remaining on Statute of Limitations or Statute Expired Before Form 211 Submission	524	3%	589
Claims Paid in Full in 2019	510	3%	2,886
Claim Rejected - Failure to File Form 211, or Sign Form 211 Under Penalties of Perjury, or Incomplete Form 211	356	2%	124
Closed - Unable to Contact/Undeliverable Whistleblower	190	1%	2,182
Anonymous Referred to 3949-A Program	137	Less than 1%	15
Claim Denied - Information Already Known	127	Less than 1%	2,483
Claim Denied - No Collected Proceeds (Uncollectible)	79	Less than 1%	3,389
Closed - Non-Compliant Whistleblower	65	Less than 1%	3,488
Closed – Other (Used as a General Closure That Does Not Fall Within One of The Specific Closure Reasons)	37	Less than 1%	1,134
Administrative Error – (Duplicate Records Created in Error)	35	Less than 1%	925
Claim Rejected - Ineligible Whistleblower	7	Less than 1%	23
Deceased Whistleblower Claims	4	Less than 1%	4,174
Total Closures	16,655	100%	

NOTE: Data reported as of September 30, 2019.



FISCAL YEAR 2020 ANNUAL REPORT
IRS WHISTLEBLOWER OFFICE

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IRS MISSION

Provide America’s taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

IRS VALUES

- Honesty and Integrity: We uphold the public trust in all that we do; we are honest and forthright in all of our internal and external dealings.
- Respect: We treat each colleague, employee and taxpayer with dignity and respect.
- Continuous Improvement: We seek to perform the best that we can today, while embracing change, so that we can perform even better in the future.
- Inclusion: We embrace diversity of background, experience and perspective.
- Openness and Collaboration: We share information and collaborate, recognizing that we are a team.
- Personal Accountability: We take responsibility for our actions and decisions and learn and grow from our achievements and mistakes.

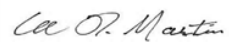
MESSAGE FROM THE DIRECTOR

The fiscal year (FY) 2020, which began on October 1, 2019, marked the 14th anniversary of the Whistleblower Office and the Whistleblower Program. I am extremely proud of the dedicated women and men in the Whistleblower Office, Small Business/Self-Employed (SB/SE) Initial Claims Evaluation unit, and other divisions across the Internal Revenue Service (IRS). Since 2007, the Whistleblower Program paid awards to whistleblowers totaling more than \$1 billion dollars and has led to the successful collection of \$6.14 billion from noncompliant taxpayers.

Statistically in FY 2020, the Whistleblower Office made 169 awards to whistleblowers totaling \$86,619,032 (before sequestration), which includes 30 awards under Internal Revenue Code (IRC) § 7623(b). Proceeds collected were \$472,080,014. Included in the proceeds collected, as a result of IRC § 7623(c), are the non-Title 26 amounts collected for criminal fines, civil forfeitures, and violations of reporting requirements amounting to \$110,438,166. The Title 26 amounts collected were \$361,641,848. Whistleblower claim numbers assigned in FY 2020 decreased by 20 percent from those submitted in FY 2019, and closures decreased by 33 percent.

During FY 2020, we continued our focus on operationalizing the whistleblower statutes under the Taxpayer First Act of 2019 (TFA 2019). This included adding four analysts to meet the increased workload due to the new provisions. To educate whistleblowers about the new TFA 2019 provisions, we updated Publication 5251, *Whistleblower Claim Process and Timeline*, and Internal Revenue Manuals 25.2.1 and 25.2.2. On December 3, 2019, we signed a Memorandum of Understanding (MOU) with Alcohol and Tobacco Tax and Trade Bureau (TTB) that put in place procedures between the IRS and TTB to process claims for whistleblower awards under Internal Revenue laws that are administered and enforced by TTB. On April 30, 2020, the Whistleblower Office held its first ever Whistleblower Program Forum. Lastly, like other organizations and businesses, the Whistleblower Office worked diligently to maintain Whistleblower Program operations that were impacted by office closures due to the coronavirus crisis.

In closing, the Whistleblower Office continues to encourage all individuals with specific and credible information about tax noncompliance 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, Whistleblower Office

***Since 2007, The Whistleblower Office
has paid awards to whistleblowers
totaling more than \$1 billion dollars
and has led to the successful
collection of \$6.14 billion from
noncompliant taxpayers.***

BACKGROUND AND PROGRAM EVOLUTION

The Tax Relief and Health Care Act (TRHCA 2006) added IRC § 7623(b), which enacted significant changes in the IRS award program for whistleblowers. The TRHCA 2006 set a new framework for the consideration of whistleblower submissions and established the Whistleblower Office within the IRS to administer that framework. The TRHCA 2006 requires that the Secretary of the Treasury conduct an annual study and report to Congress on the use of IRC § 7623. The annual study and report to Congress includes any legislative or administrative recommendations for IRC § 7623 and its application. This report discusses the IRS Whistleblower Program activities for FY 2020 in satisfaction of the reporting obligations under the TRHCA 2006.

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

- Signed and submitted under penalties of perjury;
- Related to an action in which the proceeds in dispute exceed \$2,000,000; and
- Related 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 proceeds, the IRS will pay an award of at least 15 percent, but not more than 30 percent, of the proceeds. 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 tax law violations. Whistleblowers may appeal the Whistleblower Office's award determinations under IRC § 7623(b) to the United States Tax Court (Tax Court).

The IRS pays awards from proceeds, and as such, award payments cannot be made until the taxpayer has exhausted all appeal rights and the taxpayer no longer can file a claim for refund or otherwise seek to recover the proceeds from the government. Therefore, the IRS generally cannot make award payments for several years after the whistleblower has filed a claim.

Also, the Whistleblower Office now notifies the whistleblower when a case for which the whistleblower has provided information has been referred for audit or examination. The Whistleblower Office also notifies the whistleblower when the taxpayer they identified made a tax payment with respect to which the whistleblower's information relates. In addition, the whistleblower can submit a written request for information on the status and stage or action related to such information and for the reason for an award determination on the amount of any award made under IRC § 7623(b), for the correlating whistleblower claim.

FEBRUARY 2018

On February 9, 2018, Section 41108 of the Bipartisan Budget Act of 2018 (BBA 2018) amended IRC § 7623, including by adding a new subsection (c): Proceeds – For purposes of this section, the term ‘proceeds’ includes – (1) penalties, interest, additions to tax, and additional amounts provided under the Internal Revenue laws, and (2) any proceeds arising from laws for which the Internal Revenue Service is authorized to administer, enforce, or investigate, including – (A) criminal fines and civil forfeiture, and (B) violations of reporting requirements.

JULY 2019

On July 1, 2019, Section 1405(a) of the Taxpayer First Act of 2019 (TFA 2019) amended IRC § 7623 and § 6103, adding several important provisions to help improve whistleblower service, to ensure the continual enforcement of the tax laws in a fair and impartial manner, and to ultimately support the continued success of our nation. The new law created protections for whistleblowers against retaliation.

PROGRAM DEVELOPMENTS

OPERATIONS

In December 2019, the Internal Revenue Service announced a process had been formalized with the Alcohol and Tobacco Tax and Trade Bureau (TTB) that put in place procedures between the IRS and TTB to process claims for whistleblower awards under Internal Revenue laws that are administered and enforced by TTB. The IRS and TTB signed a Memorandum of Understanding on December 3, 2019, making these new procedures possible. TTB is a bureau of the Department of the Treasury and administers provisions of the Internal Revenue laws that impose a federal excise tax on distilled spirits, wine, beer, tobacco products, cigarette papers and tubes, as well as firearms and ammunition. The new procedures enable a partnership with TTB to provide a consistent approach for claims for a whistleblower award administered under Internal Revenue laws.

Like other organizations and businesses, the Whistleblower Program operations were impacted by the ongoing Coronavirus Disease 2019 (COVID-19) national emergency. Although Whistleblower Office employees are telework ready, and employees shifted quickly to a full-time telework status, the Whistleblower Program experienced some temporary impacts and processing delays as some of the processes are dependent upon other operating divisions (ODs) affected by office closures due to the COVID-19.

Processing of new Form 211 submissions (intake) was delayed two and a half months due to stoppage in mail routing and suspension of normal operations for the Initial Claim Evaluation (ICE) unit. Mail processing resumed sporadically in June 2020. Classification continued to work and cleared through existing inventory; however, due to the intake delays, no new claims were referred to Classification during suspension of intake operations. Claims selected by Classification were not forwarded to the field during suspension of operations.

The notifications required pursuant to TFA 2019 were not impacted by the COVID-19 crisis. The notices of referral for audit or examination letters are triggered by actual movement of the claim to the field and no new claims were referred to the field during this time. Notices of payment of tax continued during this period.

Rejection and denial letters were not issued during the suspension of operations and the Whistleblower Office experienced delays in mailing of determination letters. Award issuance was suspended for one month while SB/SE transitioned some ICE employees to telework ready. Due to limited accounting staff during the suspension of operations, award issuance has taken slightly longer than usual.

Most Whistleblower Program operational processes have been fully restored; however, the Whistleblower Office has suspended indefinitely in-person reviews of any administrative claim files until further notice. Despite the COVID-19 crisis, the Whistleblower Office is continuing to process claims to the greatest extent possible including receiving information, providing notifications required by TFA 2019, issuing determination letters, and paying awards.

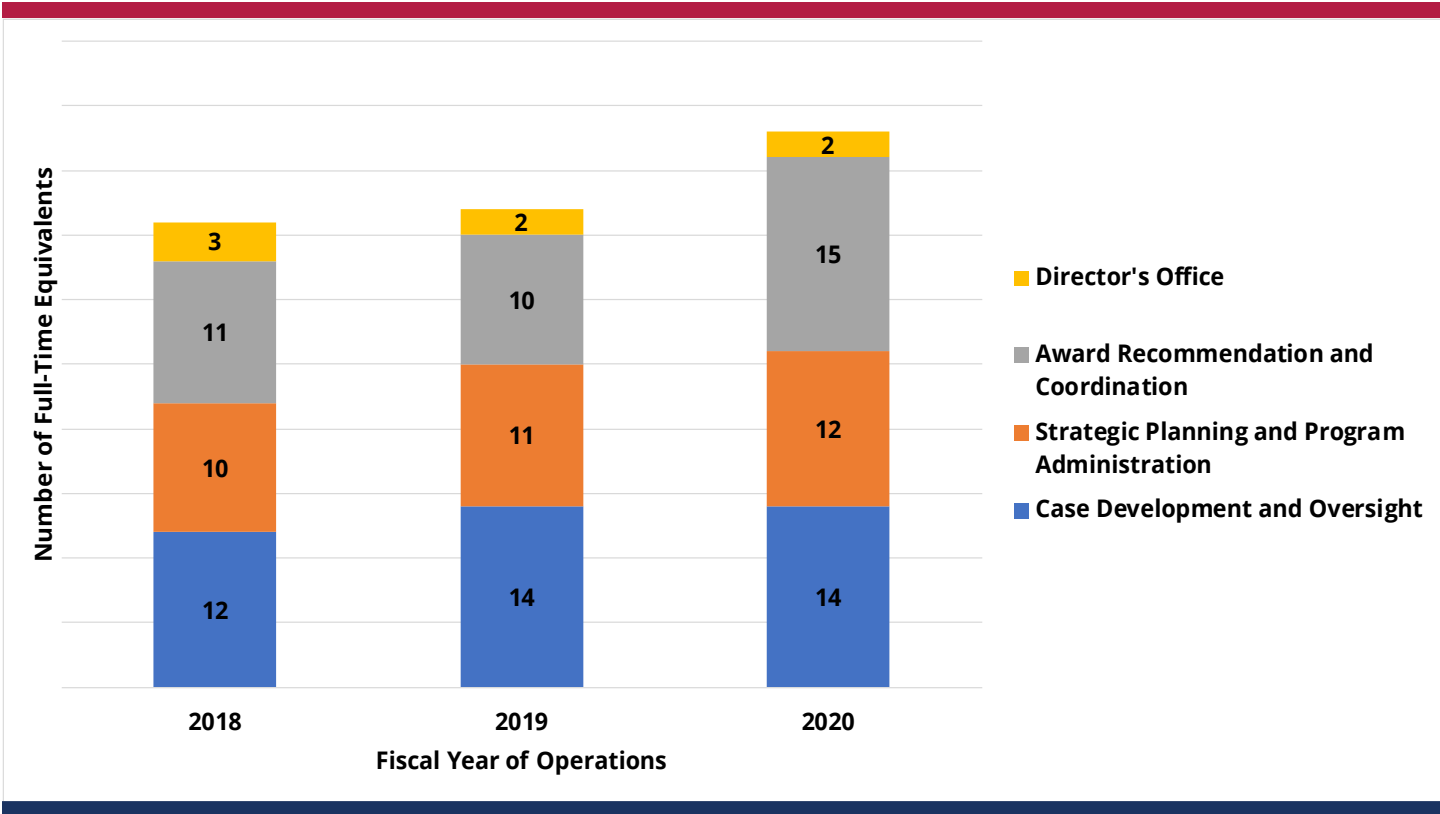
“The whistleblower program gives us another tool to fight for the level playing field that our law-abiding industry members expect and deserve,” said, TTB’s Assistant Administrator, Field Operations. “We appreciate this opportunity to partner with our colleagues at the IRS.”

Internal Revenue Service. (December 11, 2019). IRS and TTB formalize process to support processing of claims made to the IRS Whistleblower Office [Press release]. Retrieved from <https://www.irs.gov/newsroom/irs-and-ttb-formalize-process-to-support-processing-of-claims-made-to-the-irs-whistleblower-office>

STAFFING

In FY 2020, the Whistleblower Office staff was comprised of 43 full time employees with decades of experience in a broad array of IRS compliance programs.

FIGURE 1: WHISTLEBLOWER OFFICE STAFFING, FISCAL YEARS 2018 TO 2020



OUTREACH AND COMMUNICATIONS

The Whistleblower Office maintains a page on the IRS Intranet 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.gov¹, that provides information for the public about the Whistleblower Program. The website includes links to the final regulations, the Form 211, and 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.

On April 30, 2020, the Whistleblower Office held its first ever Whistleblower Program Forum. The Whistleblower Program Forum allowed industry representatives to hear directly from IRS leadership and learn more about the agency's programs and other initiatives. The Whistleblower Office has continued its outreach efforts utilizing IRS social media accounts, as well as publicly subscribed newsletters. The Whistleblower Office continues to utilize Twitter, @IRSNews, @IRStaxpros, and the E-Tax Professionals Newsletter that continues to garner many views. The Whistleblower Office also shares relevant information regularly with stakeholders through its listserv.

Whistleblower Office representatives made presentations to professional groups and attended conferences representing taxpayers and whistleblowers. By attending these functions, the Whistleblower Office obtains an outside perspective on the Whistleblower Program. The Whistleblower Office also provided consultation to other federal agencies and tax administration authorities from other nations, as they evaluated options for establishing their own whistleblower award programs.

1 <https://www.irs.gov/compliance/whistleblower-informant-award>

ADMINISTRATIVE PRIORITIES AND ISSUES

ADMINISTRATIVE GUIDANCE

TFA 2019 amended IRC § 7623 to provide statutory protections from retaliation to IRS whistleblowers, and amended IRC § 6103 to specify the Service’s authority to disclose return information to whistleblowers during investigations and to provide for additional mandatory administrative disclosures to whistleblowers regarding cases for which they have supplied information. To implement the amendments mandating certain administrative disclosures, the Whistleblower Office revised its procedures to send the notices that are required when a case for which the whistleblower has provided information has been referred for audit or examination. The Whistleblower Office now notifies the whistleblower when the taxpayer they identified has made a tax payment with respect to which the whistleblower’s information relates. In addition, the whistleblower can submit a written request for information on the status and stage, or action related to such information.

To educate the IRS community about the new TFA 2019 provisions, the Whistleblower Office incorporated key guidance and made significant updates to Publication 5251 and two Internal Revenue Manuals (IRMs). The key guidance went through the standard clearance process with reviews by the affected operating divisions and Chief Counsel. The revised publication was released in October 2019 and the two revised IRMs were published in May 2020. To accommodate the increased workload from the whistleblower TFA 2019 statutes, the Whistleblower Office added four new analysts to the Award Recommendation and Coordination (ARC) unit, a 10 percent increase to the workforce.

ISSUES OF INTEREST

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. IRC § 6103 provides authority for the IRS to disclose taxpayer information to whistleblowers in certain, limited instances.

The new IRC § 6103(k)(13), enacted as part of TFA 2019, explicitly permits disclosures by agents to whistleblowers in order to obtain information during investigations and examinations, as well as disclosures by the Whistleblower Office to apprise whistleblowers of specified milestones during the processing of their claim. Whistleblowers who receive such information are now subject to IRC § 6103’s general prohibitions on disclosure, and to criminal sanction if they re-disclose information provided to them in violation of IRC § 6103. In addition to the mandatory

and discretionary disclosures now permitted by IRC § 6103(k)(13), the IRS makes, and will continue to make, many disclosures of taxpayer information in administrative and Tax Court proceedings pursuant to IRC § 6103(h)(4). While the IRC does not prohibit whistleblowers from re-disclosing information provided under this authority, the IRC does not expressly permit disclosure of all of the third-party taxpayer information that whistleblowers typically seek from the Whistleblower Office or when litigating appeals of their denied claims in Tax Court.

The government has no authority under the IRC to restrain whistleblowers from re-disclosing a taxpayer’s return information following the completion of the administrative and judicial processes. The absence of such protections is especially relevant in cases that involve extensive discovery. In Tax Court, the only limits to the disclosure of returns or return information to the whistleblower are those that a judge may choose to impose in a particular case. For example, the Tax Court may issue a protective order prohibiting the whistleblower from using third-party tax information provided by the IRS in another matter. However, such orders are not statutorily required, and the IRS and the court may not always be cognizant of violations. On the other hand, because IRC § 6103(h)(4)(B) and (C) only permit the IRS to disclose returns or return information to the whistleblower if “directly related” to an issue in the case, counsel for the IRS frequently finds itself in the difficult position of withholding information which, though not disclosable under IRC § 6103’s high standard of “directly related,” is arguably discoverable under the Tax Court rules’ lower “relevancy” standard. Notably, taxpayers are not parties to whistleblower litigation, and as such, taxpayers typically do not know that their confidential returns

and return information may be disclosed to whistleblowers, and thus, have no impetus to intervene to ensure the information is protected.

In sum, the IRS has no legal authority to restrain whistleblowers from re-disclosing return information following the completion of the administrative and judicial processes.

STATUTORY CLARIFICATION NEEDED ON SUBMITTING INFORMATION AND CLAIMING AWARDS

IRC § 7623 provides for awards, in some cases mandatory, when the IRS proceeds with an action based on a whistleblower’s information. The mandatory award provisions require that information be submitted under penalty of perjury. Separately, IRC § 7623(b)(3) refers to a “claim for award” without providing any further specifics. The Whistleblower Office understands the statute to require a whistleblower to submit the claim for award, like the information, before the IRS proceeds with an action. While information comes into the IRS from a variety of sources, relatively few individuals that provide information to the IRS do so with the intent to claim an award. The claim for award is the only trigger available to the Whistleblower Office for classifying an individual as a whistleblower for purposes of IRC § 7623. The claim for award also allows the Whistleblower Office to contemporaneously track the IRS’s use of whistleblower information, and proactively manage the Whistleblower Program. Clarifying the statutory claim filing requirement would strengthen the Program by ensuring that Whistleblower Office resources are devoted to filed claims.

WHISTLEBLOWER PROGRAM RESULTS

Under IRC § 6103, returns and return information are confidential, unless an exception applies. There is no exception in IRC § 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 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 2018 TO 2020

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 amounts of awards paid each year can vary significantly, especially when a small number of high-dollar claims are resolved in a single year. The year in which an award is paid is generally not the year in which collections occurred because the IRS must wait until there is a final determination of proceeds, which means that the taxpayer has exhausted all appeal rights and the taxpayer no longer can file a claim for refund or otherwise seek to recover the proceeds from the government.

Pursuant to the requirements of the Budget Control Act of 2011, as amended by the American Tax Relief Act of 2012, whistleblower award payments under IRC § 7623 are subject to sequestration. The applicable sequestration reduction may change from year-to-year. As applied to payments under IRC § 7623, the required reductions in FY 2020 were 5.9 percent of the amount that would otherwise have been payable. Sequestration reductions totaling \$5,110,523 were applied to awards paid during FY 2020.

Since 2007, the Whistleblower Office made awards in excess of \$1.01 billion based on the collection of \$6.14 billion. In FY 2020, the IRS made 169 awards, totaling \$86,619,032 prior to the sequestration reduction; the total award amount represents 18.3% of total amounts collected. In FY 2020, 30 of the award payments made involved IRC § 7623(b) claims.

In some cases, individuals submit multiple claims relating to the same information. In other cases, as the Tax Court has noted, whistleblowers submit numerous claims based entirely on publicly available information—some whistleblowers have submitted hundreds of such claims. To date, the Whistleblower Office has sought to process and respond to all claims filed by whistleblowers. While it will continue to do so, the Whistleblower Office will also continue to look for ways to address duplicative or non-meritorious claims in a summary fashion, both to focus its administrative resources better and to guard against the unnecessary or inadvertent disclosure of confidential taxpayer return information.

TABLE 1: AMOUNTS COLLECTED AND AWARDS UNDER IRC § 7623, FISCAL YEARS 2018 TO 2020

	FY 2018	FY 2019	FY 2020
Total Claims Related to Awards	423	510	593
Total Number of Awards	217	181	169
Total IRC § 7623(b) Awards	31	24	30
Total Amounts of Awards ²	\$312,207,590	\$120,305,278	\$86,619,032
Proceeds Collected	\$1,441,255,859	\$616,773,127	\$472,080,014
Awards as a Percentage of Proceeds Collected	21.7%	19.5%	18.3%

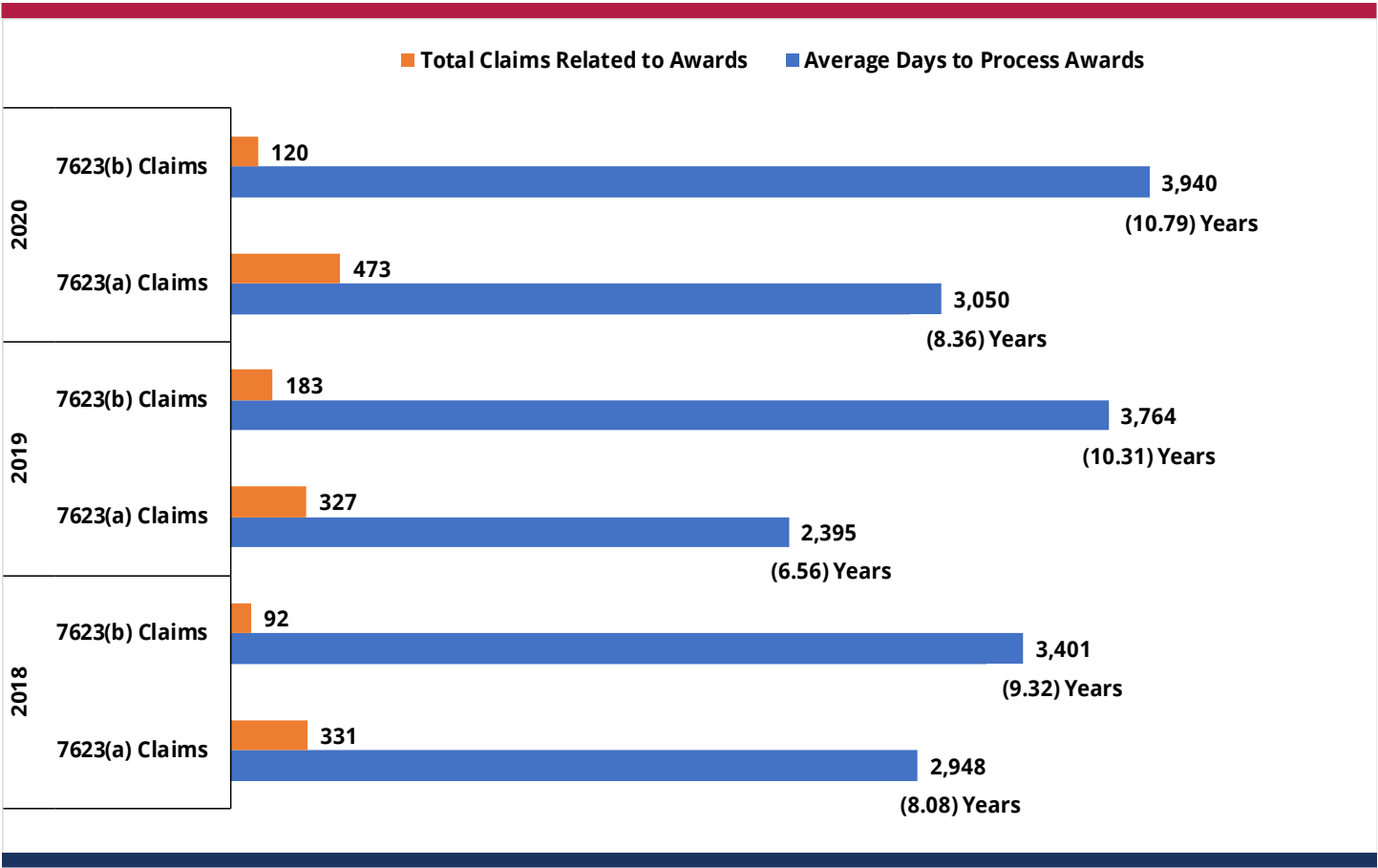
NOTE: Data reported as of September 30, 2020

2 “Total Amount of Awards” is prior to the sequestration reduction.

TOTAL CLAIMS RELATED TO AWARDS AND AVERAGE DAYS TO PROCESS AWARDS, FISCAL YEARS 2018 TO 2020

Figure 2 provides the average processing days for award claims paid under IRC § 7623(a) and § 7623(b). Generally, the IRS does not pay awards for at least eight years after the whistleblower has filed a claim because a payment cannot be made until there is a final determination of proceeds. This is consistent with information provided to whistleblowers that awards may not be paid until several years after receipt of the claim.

FIGURE 2: TOTAL CLAIMS RELATED TO AWARDS³ AND AVERAGE DAYS TO PROCESS AWARDS BY CLAIM TYPE, FISCAL YEARS 2018 TO 2020

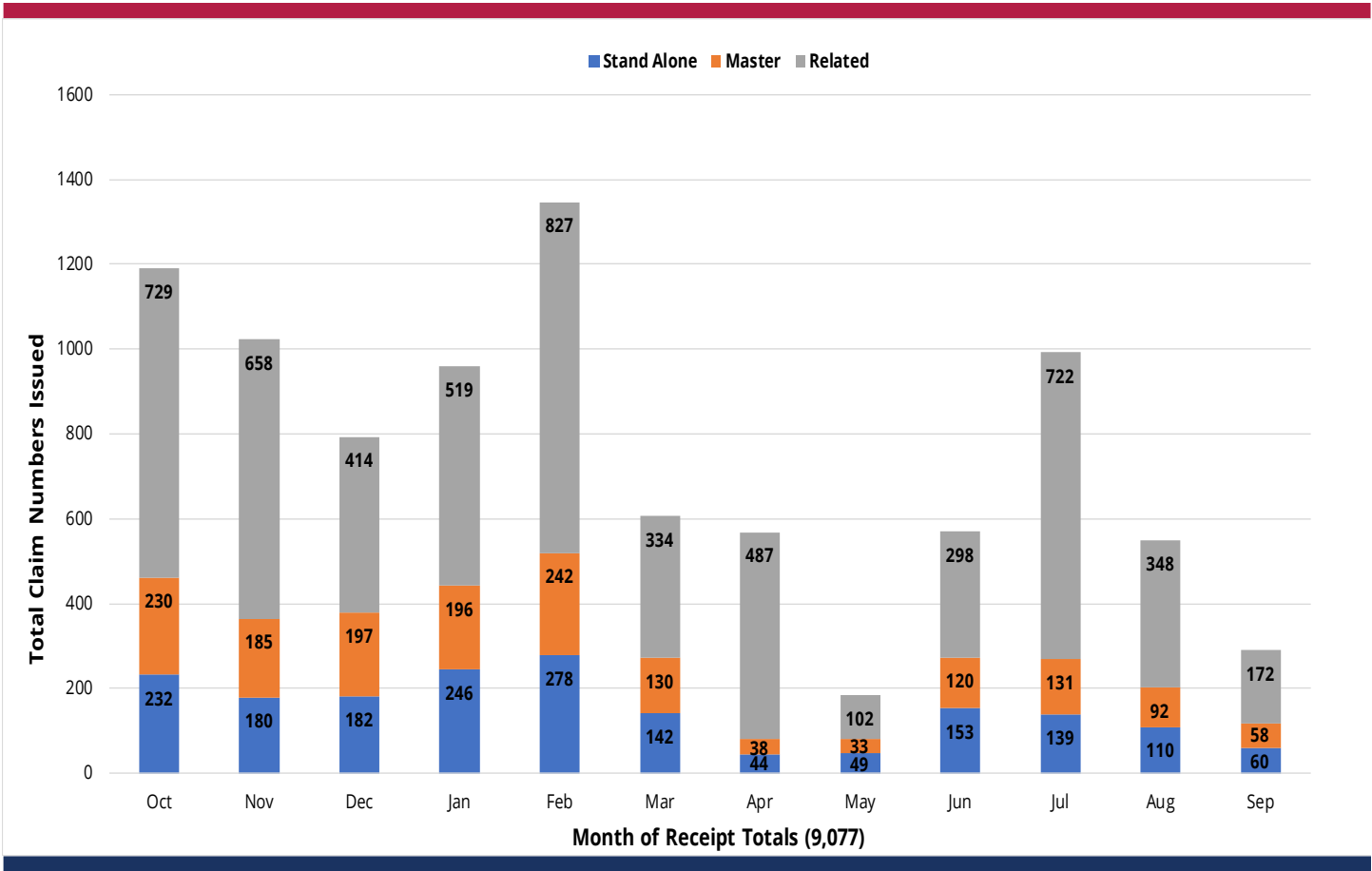


3 Figure 2 only reflects claims paid in full as of September 30, 2020.

TOTAL STAND-ALONE, MASTER, AND RELATED CLAIM NUMBERS BY MONTH IN FISCAL YEAR 2020

Figure 3 identifies trends and fluctuations as they pertain to Form 211 submissions to the Whistleblower Office and claim numbers issued each month in FY 2020. Figure 3 identifies the submissions as stand-alone, master, and related claim numbers. Stand-alone claim numbers are defined as submissions identifying one taxpayer. Generally, multiple claim numbers are assigned when the claim submission identifies multiple taxpayers. When multiple taxpayers are identified, the claim is then subsequently identified by a master claim number, with related claim numbers. For each master claim number identified below, there are at least two related claim numbers.

FIGURE 3: TOTAL CLAIM NUMBERS ISSUED BY MONTH IN FISCAL YEAR 2020



FISCAL YEAR 2020 RECEIPTS, BY OPERATING DIVISION

Table 2(A) provides additional information on submissions received in FY 2020. This table identifies the IRS operating divisions to which 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 (LB&I) Division, while matters involving businesses and individuals that do not meet that threshold are generally assigned to Small Business/Self-Employed (SB/SE) Division. Claims involving pension plans, exempt organizations, or governmental entities are referred to Tax Exempt and Government Entities (TE/GE) Division. A claim initially assigned to LB&I, SB/SE, or TE/GE may be referred to Criminal Investigation (CI) Division if the operating division’s development of the case reveals a potential criminal violation. The Whistleblower Office also makes direct referrals to CI, such as cases where the allegations relate to illegal source income or other matters where development by a civil operating division would be unnecessary or inappropriate.

The table also identifies the claim types. Claims listed as IRC § 7623(b) include any claim that appears to have the potential to exceed the \$2 million threshold under IRC § 7623(b)(5)(B), with all others classified as IRC § 7623(a) claims.

RECEIPTS SELECTED BY OPERATING DIVISIONS FOR REFERRAL TO EXAMINATION IN FISCAL YEAR 2020

Table 2(B) shows the percentage of the claims selected by the operating divisions for referral to field examination as of September 30, 2020.

4 The designation of a claim as a potential IRC § 7623(b) claim should not be treated as final 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.

5 & 6 The operating division is not specified for some claims because there may be more than one with responsibility for the issues identified, or the claim may be incomplete.

TABLE 2A: FISCAL YEAR 2020 RECEIPTS, BY OPERATING DIVISION

Operating Division		Claim Type ⁴		Total
		7623(a)	7623(b)	
CI	Submissions	29	26	55
	Claim Numbers	403	63	466
LB&I	Submissions	278	73	351
	Claim Numbers	1,351	216	1,567
SB/SE	Submissions	2,490	101	2,591
	Claim Numbers	6,153	409	6,562
TE/GE	Submissions	171	33	204
	Claim Numbers	398	81	479
Not Specified ⁵	Submissions	3	-	3
	Claim Numbers	3	-	3
Total Submissions		2,971	233	3,204
Total Claim Numbers		8,308	769	9,077

NOTE: Data reported as of September 30, 2020

TABLE 2B: RECEIPTS SELECTED BY OPERATING DIVISIONS FOR REFERRAL TO EXAMINATION IN FY 2020

Operating Division	Claim Type	Receipts	Total Receipts Sent to Field	Percentage of Total Receipts Sent to Field
CI	7623 (a)	403	123	30.52%
	7623 (b)	63	39	61.90%
LB&I	7623 (a)	1,351	28	2.07%
	7623 (b)	216	35	16.20%
SB/SE	7623 (a)	6,153	385	6.26%
	7623 (b)	409	132	32.27%
TE/GE	7623 (a)	398	44	11.06%
	7623 (b)	81	16	19.75%
Not Specified ⁶	7623 (a)	3	-	0.00%
	7623 (b)	-	-	0.00%
Total		9,077	802	8.84%

CLAIM NUMBERS ISSUED, OPEN, AND CLOSED, FISCAL YEARS 2018 TO 2020

Figure 4(A) provides information on claim numbers issued, claims remaining open, and claims that were closed in each fiscal year from 2018 to 2020.

FIGURE 4A: CLAIM NUMBERS ISSUED, OPEN, AND CLOSED⁷



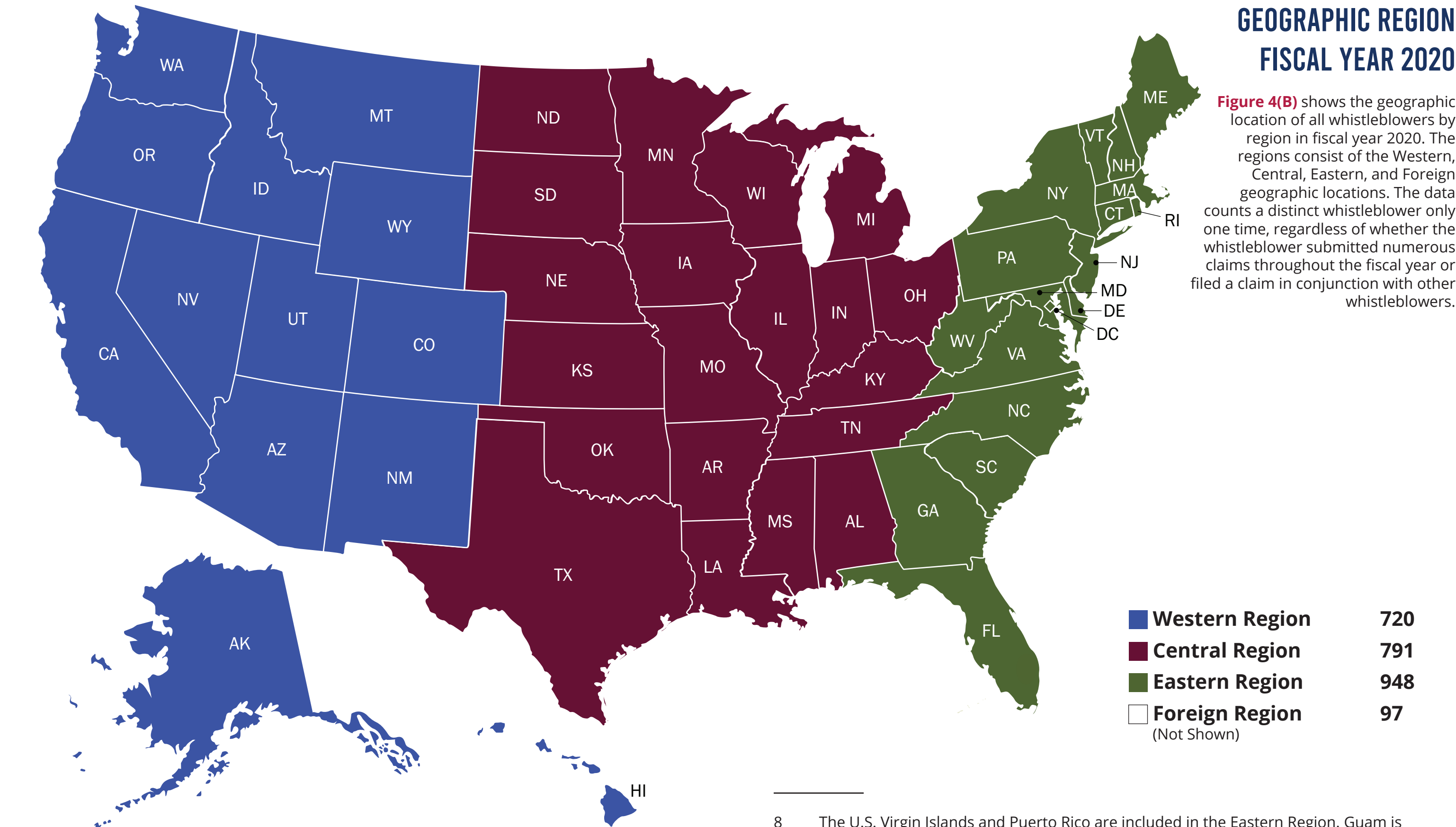
⁷ The data presented in this table is captured as of a certain date and is a snapshot in time.

IRS WHISTLEBLOWER OFFICE HOTLINE STATISTICS

The graphic below represents the total number of calls, the average number of calls, and the highest monthly call volume for FY 2020.



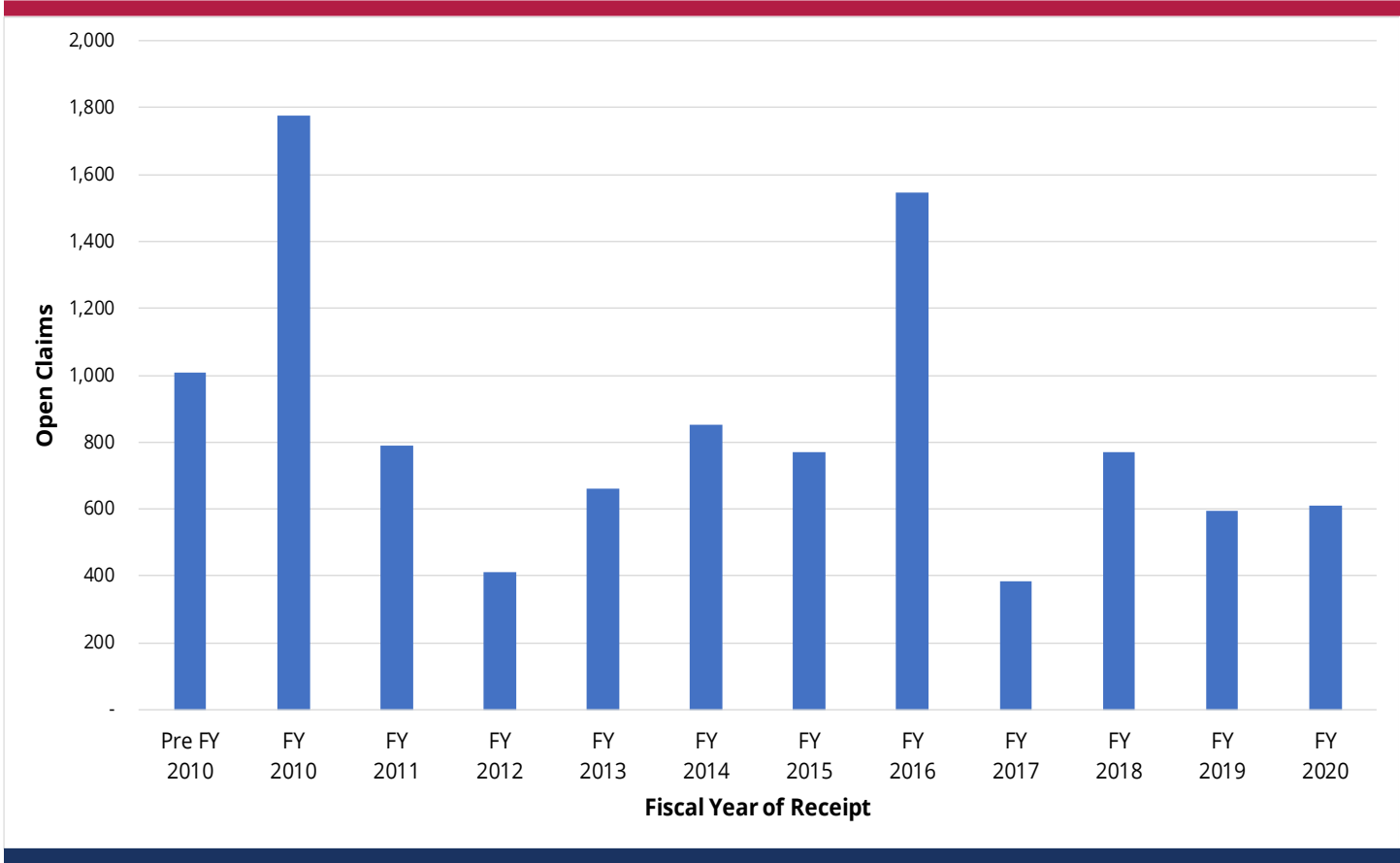
FIGURE 4B: NUMBER OF WHISTLEBLOWERS BY GEOGRAPHIC REGION⁸



OPEN IRC § 7623(B) CLAIMS AS OF FISCAL YEAR 2020

Figure 5 shows the number of IRC § 7623(b) claims remaining open as of September 30, 2020, by year received. The Whistleblower Office uses information provided by the whistleblower to determine whether a claim has the potential to result in proceeds in dispute exceeding the \$2,000,000 threshold for IRC § 7623(b). The designation as a potential IRC § 7623(b) claim is not treated as final. The Initial Claims Evaluation (ICE) Unit conducts an initial review of the whistleblower’s Form 211 submission to identify potential IRC § 7623(b) claims. ICE then forwards the potential claims 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 IRC § 7623(A) AND § 7623(B) CLAIMS

Table 3 reflects a summary of statuses for open IRC § 7623(a) and § 7623(b) claims. For FY 2020, the statuses were organized into processing phases that provide an overview of where each claim is situated in the claim’s lifecycle as of September 30, 2020.

TABLE 3: STATUS OF OPEN IRC § 7623(A) & § 7623(B) CLAIMS

Processes ⁹	Claim Numbers
Intake/Classification 7623(a)	1,457
7623(b)	170
OD Field/Investigation 7623(a)	2,598
7623(b)	2,811
OD Field/Suspense 7623(a)	5,283
7623(b)	5,123
Appeals 7623(a)	238
7623(b)	287
Preliminary Award Evaluation 7623(a)	244
7623(b)	65
Interim Award Assessment 7623(a)	748
7623(b)	224
Collection/Suspense 7623(a)	2,815
7623(b)	534
Award/Suspense 7623(a)	329
7623(b)	477
Final Review 7623(a)	10
7623(b)	364
Litigation ¹⁰ 7623(a)	48
7623(b)	118
Total	23,943

NOTE: Data reported as of September 30, 2020

9 Refer to the “Glossary of Terms” for a complete description of the processing phases outlined under the “Processes” listed Table 3.

10 There are closed claims that are in litigation. Table 3 identifies only open claims.

DESCRIPTION OF PROCESSING PHASES

► **Intake/Classification**

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 the OD’s classification function for further review. The primary function of this process is to determine which claims require additional review from the Whistleblower Office or the ODs. This process includes claims that have no current status, claims that require additional information, incomplete claims, new claims, and claims awaiting classification.

► **OD Field/Investigation**

OD Field/Investigation process includes claims sent to the various ODs 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.

► **OD Field/Suspense**

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 that are awaiting the closure of an associated claim, to allow all claims to be closed out simultaneously. This process includes the 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.

► **Appeals**

This process involves the status on claims in which the taxpayer has sought review by the IRS appeals function or the courts.

► **Preliminary Award Evaluation**

Preliminary Award Evaluation process involves claims with current statuses including administrative proceedings for either rejections or denials, or for Preliminary Award Recommendation Letters (PARL).

► **Interim Award Assessment**

This process includes the review of all claims that have been returned from the ODs 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 ODs to determine whether sufficient information exists to make an award decision, managerial PARL approval, and the review of pending rejection and denial letters.

► **Collection/Suspense**

Collection/Suspense process involves the monitoring of tax accounts associated with claims for payment of the deficiencies.

► **Award/Suspense**

This process includes cases that have been suspended, and cases in which the payment has been received but is awaiting final determination of proceeds.

► **Final Review**

Final Review process includes Award Recommendation Memoranda and letters for rejections and denials, which have been approved, or are awaiting approval from management.

► **Litigation**

The litigation process includes the claims where the whistleblower has sought litigation regarding an award determination made on the whistleblower’s claim.

CLOSURE REASONS FOR FISCAL YEAR 2020

In FY 2020, the Whistleblower Office closed 11,135 claims, a 33.1 percent decrease from FY 2019 closures. The three most common factors for closures were:

- Rejected claims with a non-specific, non-credible, or speculative allegation.
- Claims denied due to the examination resulting in a “no change,” or the issues utilizing the information provided by the whistleblower resulted in a “no change.”
- Claim was surveyed by the OD. The OD decided not to pursue due to various reasons including but not limited to; the quality of the claim information, enforcement priorities, statute of limitations is too short for enforcement action, and lack of collectability.

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

- 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 taxpayer.
- 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 takes action based on the information provided by the whistleblower. When the information provided by the whistleblower has no relevance to the adjustments, the claim is denied, and the closure reason applied is “Claim Denied - Whistleblower Issue Was ‘No Change’.”

Table 4 provides a summary of the closure reasons for closures that occurred during FY 2020. The data was grouped into similar categories and is displayed as a percentage of the total closures.

TABLE 4: FY 2020 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
Claim Rejected - Allegations are not Specific, Credible, or are Speculative in Nature	5,074	46%	143
Claim Denied - Examination Result Was "No Change" or Whistleblower Issues Was "No Change"	1,820	16%	1,832
Claim Denied - Surveyed by operating division	969	9%	2,025
Claim Denied - Issues Below Threshold for IRS Action	697	6%	148
Claim Rejected - No Tax Issue	663	6%	62
Claims Paid in Full in 2020	593	5%	3,229
Claim Rejected - Failure to Sign Form 211 Under Penalties of Perjury, or Incomplete Form 211	503	5%	111
Claim Denied - Insufficient Time Remaining on Statute of Limitations or Statute Expired Before Form 211 Submission	403	4%	658
Anonymous Referred to 3949-A Program	108	Less than 1%	17
Closed - Unable to Contact/Undeliverable Whistleblower	73	Less than 1%	3,709
Closed - Failure to File Form 211	55	Less than 1%	212
Administrative Error – (Duplicate Records Created in Error)	48	Less than 1%	525
Claim Denied - Information Already Known	47	Less than 1%	2,039
Claim Denied - No Collected Proceeds (Uncollectible)	33	Less than 1%	3,430
Deceased Whistleblower Claims	27	Less than 1%	4,475
Closed – Other (Used as a General Closure That Does Not Fall Within One of The Specific Closure Reasons)	19	Less than 1%	490
Claim Rejected - Ineligible Whistleblower	2	Less than 1%	219
Closed - Non-Compliant Whistleblower	1	Less than 1%	8,669
Total Closures	11,135	100%	

NOTE: Data reported as of September 30, 2020.

TOP THREE CLOSURE REASONS

