

IRS Sings New Tune: Whistleblower Form Update Is Welcome

By **Benjamin Calitri** (April 18, 2024)

Significant improvements are taking place in the Internal Revenue Service whistleblower program in an effort to improve the process for whistleblowers.[1]

As part of this effort, on March 25, the IRS introduced a new Form 211, the application for award for original information.[2] Whistleblowers must file this form to report major tax violations.[3]

Since 2006, the IRS Whistleblower Program has collected over \$6 billion from wealthy individuals and businesses who were caught avoiding or underpaying taxes thanks to whistleblowers reporting tax fraud to the IRS Whistleblower Office.



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Under the IRS whistleblower law, Title 26 of the U.S. Code, Section 7623(b), whistleblowers may report allegations of tax fraud committed by wealthy individuals and companies.

If the whistleblower reports tax noncompliance and the tax, penalties and interest in dispute exceed \$2 million or if it relates to individual taxpayers whose gross income exceeds \$200,000 for at least one of the tax years in question, the IRS must pay the whistleblower from 15% to 30% of the amounts collected that are attributable to the information provided by the whistleblower.

When a submission does not meet the criteria for an award under Section 7623(b), the IRS will consider it for the discretionary program under Section 7623(a) of the Internal Revenue Code.

A revamped Form 211 for whistleblower claims is one of the many steps the IRS is taking in its effort to modernize and improve the whistleblower program under John W. Hinman, the program's director.[4]

The first noticeable change in this new Form 211 is a change in formatting.[5] The new form is divided into 3 sections:

- Section A, information about that person or business you are reporting;
- Section B, information about the alleged violation; and
- Section C, information about yourself.

This separates "information about the alleged violation" from "information about that person or business you are reporting" into a new section, making the form more intuitive. It also expands the length of Form 211 from one to four pages when expanded to be manually completed.

The IRS uses this extra page length to provide greater detail for many questions. The list of alleged violations that can be selected has been expanded, from eight to 16 — not including "other" — and notably now acknowledges the IRS' jurisdiction over Bank Secrecy Act and money laundering violations.[6]

The number of eligibility questions for claimants is also expanded, from four to eight. The IRS also clarifies other questions, such as changing "Are you involved with any governmental or legal proceeding involving the taxpayer?" to the more precise and relevant "Did you submit this information to the IRS, other Federal or State Agencies, or government personnel?"

This change clarifies the intent of the question to ask whether the whistleblower has reported information to other whistleblower programs.

The revised Form 211 also uses updated technology compared to the older form. A new, helpful feature is the option to fill out a digital version of the form, which only expands the relevant questions based on your selections and answers, or to use a print version of the form, which expands all the possible questions and sub questions.

There are also information boxes next to some questions, which show digital pop-ups with additional information on how to fill out the form.

The most useful of these information pop-ups specifies that "A 'wet ink' signature is not required for the IRS to accept a Form 211 ... [but t]he Whistleblower Office will not accept any electronic signatures on a Form 211."

A wet-ink signature means that the same form that was printed and signed by the whistleblower in pen must be the one submitted to the IRS, which does not allow a copy of the form that was signed then scanned and reprinted to be filed.

Meanwhile, an electronic signature means a signature that was added digitally. This is useful for practitioners, as the rules regarding signatures were unclear previously.

Whether this signature rule also applies to the Form 2848 Power of Attorney, which often accompanies a Form 211, is uncertain.

The IRS has also added QR codes to the instructions pages with links to the IRS Whistleblower Office and Publication 5251, which "provides an overview of the whistleblower claim process."

This new Form 211 is a significant improvement over the previous version, with more intuitive formatting, questions and technology.

The IRS Whistleblower Office recently announced plans to move toward an online portal for whistleblower submissions, similar to the Climate Registry portals used by the U.S. Securities and Exchange Commission and Commodity Futures Trading Commission whistleblower offices.

The new IRS Form 211 and the newly specified policy that wet-ink signatures are not required are laying the groundwork for the IRS Whistleblower Program to shift to a new digital process.

Other expected changes include modernized computer systems that will enable the IRS Whistleblower Office to better track cases that are referred to other offices for investigation or audits, enhanced communications with whistleblower counsel via email, and the addition of new staff to help process whistleblower claims more efficiently.

These modernization efforts, latest technology and hiring of new staff for the IRS

whistleblower program, were made possible in part by the IRS funding appropriated through the Inflation Reduction Act, passed by Congress in 2022.

More help may also be on the way from Congress. The bipartisan IRS Whistleblower Program Improvement Act of 2023, introduced by Sens. Chuck Grassley, R-Iowa; Ron Wyden, D-Ore.; Roger Wicker, R-Miss.; and Ben Cardin, D-Md. would implement many much-needed reforms to fix the current program.[7]

These improvements include exempting whistleblower awards from reductions based on budgetary sequestrations, requiring the IRS to issue a whistleblower award determination within one year of proceeds being collected, creating a presumption of anonymity for whistleblowers, and providing de novo review in appeals to the tax court.

The updated Form 211 underscores the current efforts of the IRS to make its whistleblower program more efficient and whistleblower-friendly.

The IRS whistleblower program is an essential component of the IRS' enforcement efforts, and any roadblocks to blowing the whistle weaken the program. The IRS clearly recognizes this and is working to make the whistleblower disclosure process more streamlined and straightforward.

Not only is the updating of Form 211 a welcome reform, but it also demonstrates a commitment by the IRS to address problems with the program and to better work alongside whistleblowers.

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[1] IRS Whistleblower Program: An Overview of Protections, Rewards, and Reporting, Kohn, Kohn & Colapinto, LLP (updated Oct. 12, 2023), <https://kkc.com/frequently-asked-questions/IRS-whistleblower-program-an-overview/>.

[2] What is IRS Form 211?, Kohn, Kohn & Colapinto, LLP (updated Aug. 24, 2023), <https://kkc.com/frequently-asked-questions/what-is-irs-form-211/>.

[3] Blowing the Whistle on Tax Evasion to the IRS, Kohn, Kohn & Colapinto, LLP (updated Oct. 13, 2023), <https://kkc.com/frequently-asked-questions/whistleblowing-tax-evasion/>.

[4] Geoff Schweller, IRS Announces New Director of Whistleblower Office, Kohn, Kohn & Colapinto, LLP (May 12, 2022), <https://kkc.com/blog/irs-announces-new-director-of-whistleblower-office/>.

[5] <https://www.irs.gov/pub/irs-pdf/f211.pdf>.

[6] See What is the Bank Secrecy Act (BSA)?, Kohn, Kohn & Colapinto, LLP (updated Mar. 25, 2024), [https://kkc.com/frequently-asked-questions/what-is-the-bank-secrecy-act-bsa](https://kkc.com/frequently-asked-questions/what-is-the-bank-secrecy-act-bsa;); IRM 9.1.2.2(3), https://www.irs.gov/irm/part9/irm_09-001-002.

[7] Grassley, Wyden, Wicker, Cardin Introduce Bipartisan Bill to Strengthen IRS Whistleblower Program, Chuck Grassley (Mar. 2, 2023), <https://www.grassley.senate.gov/news/news-releases/grassley-wyden-wicker-cardin-introduce-bipartisan-bill-to-strengthen-irs-whistleblower-program>; Stephen Kohn, Bipartisan Reform Bill Would Bolster Beleaguered IRS Whistleblower Program, Kohn, Kohn & Colapinto, LLP (Nov. 16, 2023), <https://kkc.com/blog/bipartisan-reform-bill-would-bolster-beleaguered-irs-whistleblower-program/>.