



FISCAL YEAR 2021 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

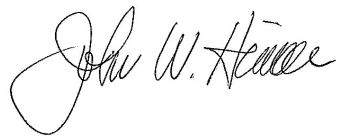
Fiscal year (FY) 2021, which began on October 1, 2020, marked the 15th anniversary of the Whistleblower Office. On May 9, 2022, John W. Hinman was selected as Director of the Whistleblower Office.

Since 2007, the Whistleblower Office has paid out more than 2,500 awards to whistleblowers totaling over \$1.05 billion and has led to the successful collection of \$6.39 billion from non-compliant taxpayers. The Internal Revenue Service (IRS) thanks the whistleblowers who submitted credible information to our Whistleblower program. We also recognize the Whistleblower Office employees, the Small Business/Self-Employed (SB/SE) Initial Claims Evaluation unit, and all the divisions across the IRS that have contributed to the Whistleblower Program's success.

The Whistleblower Office continues to work diligently to maintain program operations impacted by the pandemic. In FY 2021, the Whistleblower Office made 179 award payments to whistleblowers totaling \$36,144,926 (before sequestration), which includes 20 awards paid under Internal Revenue Code (IRC) § 7623(b). Proceeds collected were \$245,303,646. 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 \$22,769,265. The Title 26 amounts collected were \$222,534,381. Whistleblower claim numbers assigned in FY 2021 grew by 55 percent year over year, the second highest level of new claim numbers in the history of the program and claim closures also increased by 13 percent.

During FY 2021, the Whistleblower Office underwent a major reorganization to better serve whistleblowers and accommodate program growth. This year's report introduces the IRC § 7623 Payment and Claim Processing Analysis. The analysis shows IRC § 7623(b) awards were paid on average in 17 days, with IRC § 7623(a) awards averaging 51 days, from the earliest payment date allowed under the Regulations. Also new this year, is Table 2(A) which lists the ten most common allegations submitted to the Whistleblower Office during the fiscal year. Table 2(B) covers the number of disclosures made by the Whistleblower Office in FY 2021 under the Taxpayer First Act of 2019 (TFA 2019).

We encourage all individuals with specific and credible information about tax noncompliance to provide this information to the IRS by filing a claim on Form 211, Application for Award for Original Information, with the Whistleblower Office. The Form 211 can be found at [irs.gov/whistleblower](https://irs.gov/whistleblower).



**John W. Hinman**  
Director, Whistleblower Office

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***"The Whistleblower Office has paid out more than 2,500 awards to whistleblowers totaling over \$1.05 billion and has led to the successful collection of \$6.39 billion from non-compliant taxpayers."***

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# 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 2021 in satisfaction of the reporting obligation under the TRHCA 2006.

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

The IRS pays awards from proceeds collected 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.

## AUGUST 2014

On August 12, 2014, the Treasury Department and the Internal Revenue Service (IRS) published final regulations providing comprehensive guidance for the IRS Whistleblower Program under IRC § 7623. The regulations also provided guidance on submitting information regarding underpayments of tax or violations of the internal revenue laws and filing claims for award, as well as on the administrative proceedings applicable to claims for award under IRC § 7623. The regulations also provided guidance on the determination and payment of awards; and defined key terms used in IRC § 7623. Finally, the regulations confirmed the Director, officers, and employees of the Whistleblower Office are authorized to disclose return information to the extent necessary to conduct whistleblower administrative proceedings.

## FEBRUARY 2018

On February 9, 2018, Section 41108 of the Bipartisan Budget Act of 2018 (BBA 2018) amended IRC § 7623, which added 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.

BBA 2018 also amended Section 7623(b)(5)(B) to limit Section 7623(b) to cases in which the "proceeds" in dispute exceed \$2,000,000.

## JULY 2019

On July 1, 2019, Section 1405(a) of the TFA 2019 amended IRC § 7623 and § 6103, and added 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. In addition, TFA 2019 created protections for whistleblowers against retaliation.

# PROGRAM DEVELOPMENTS

## OPERATIONS

The Whistleblower Office considers its internal controls and quality assurance to be an utmost priority. In FY 2021, the Whistleblower Office successfully completed three internal reviews performed by the IRS Office of the Chief Financial Officer (CFO). The reviews covered the Whistleblower Office processes for Quality Assurance: Award and Denial Claims Review, Multiple Independent Whistleblowers Related to the Same Proceeds Collected, and non-Title 26 Foreign Bank and Financial Accounts (FBAR) Proceeds. Upon completion of all three internal reviews, it was determined the Whistleblower Office is exhibiting effective internal controls and that no material deficiencies exist. No recommendations were presented to the Whistleblower Office for further consideration.

Like other organizations and businesses, the Whistleblower Program operations continued to be impacted by the ongoing Coronavirus pandemic. This caused a slowdown in Whistleblower Program operations including intake processing, classification, payment processing, litigation, and closures. Most Whistleblower Program operational processes have been fully restored, and 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 the processing of awards.

On March 27, 2020, H.R. 748, Coronavirus Aid, Relief and Economic Security Act (CARES 2020)<sup>1</sup> was signed into law. The enactment of CARES 2020 modified certain provisions with respect to Net Operating Losses (NOL). A NOL is created when a qualifying entity's excess tax deductions for the tax year exceeds its taxable income for that year. Under CARES 2020, an NOL from a tax year beginning in 2018, 2019, or 2020 can be carried back five years by any taxpayer entitled to an NOL deduction under IRC § 172. This may create a significant increase in the processing time for any claim with a tax year that falls within these carryback periods. The final determination of tax date for these periods will now be governed by the carryback years and the respective statutes for those years. If there are losses carried back, then additional time may be necessary to monitor for collection of proceeds.

The Whistleblower Office continues to apply sequestration to all award payments in accordance with the Budget Control Act of 2011, as amended by the American Tax Relief Act of 2012. This requires automatic reductions with respect to certain government payments including whistleblower award payments made under IRC § 7623. The required reduction percentage is determined annually by the Office of Management and Budget for the year in which payments are made. The Whistleblower Office communicates the amount and nature of the reduction with respect to the award determination in the Preliminary Award Recommendation Letter, Detailed Report (when applicable), Final Award Letter, and annual sequestration rate notices.

The Whistleblower Office adopted a policy permitting the disaggregation of eligible claim submissions in an effort to issue award payments earlier. Disaggregation is when the Whistleblower Office breaks away one or more individual claim numbers from a larger claim submission for a final determination. This is done when a claim submission is not ready for an award determination but one or more claim numbers in the claim submission are eligible for an award determination.

There are many reasons a claim submission may not be ready for an award determination (e.g., some claim numbers in the submission are still undergoing an administrative or judicial action, being monitored for collection or appeals, or waiting for a collection or refund statute to expire).

Once the Whistleblower Office identifies eligible claim number(s), the Whistleblower Office will disaggregate them from the claim submission and then proceed with an administrative proceeding for the disaggregated claim numbers, including a final determination on the disaggregated claim. The determination is only final and applicable to the disaggregated claim. A separate determination will be made for the remainder of the whistleblower's claim submission.

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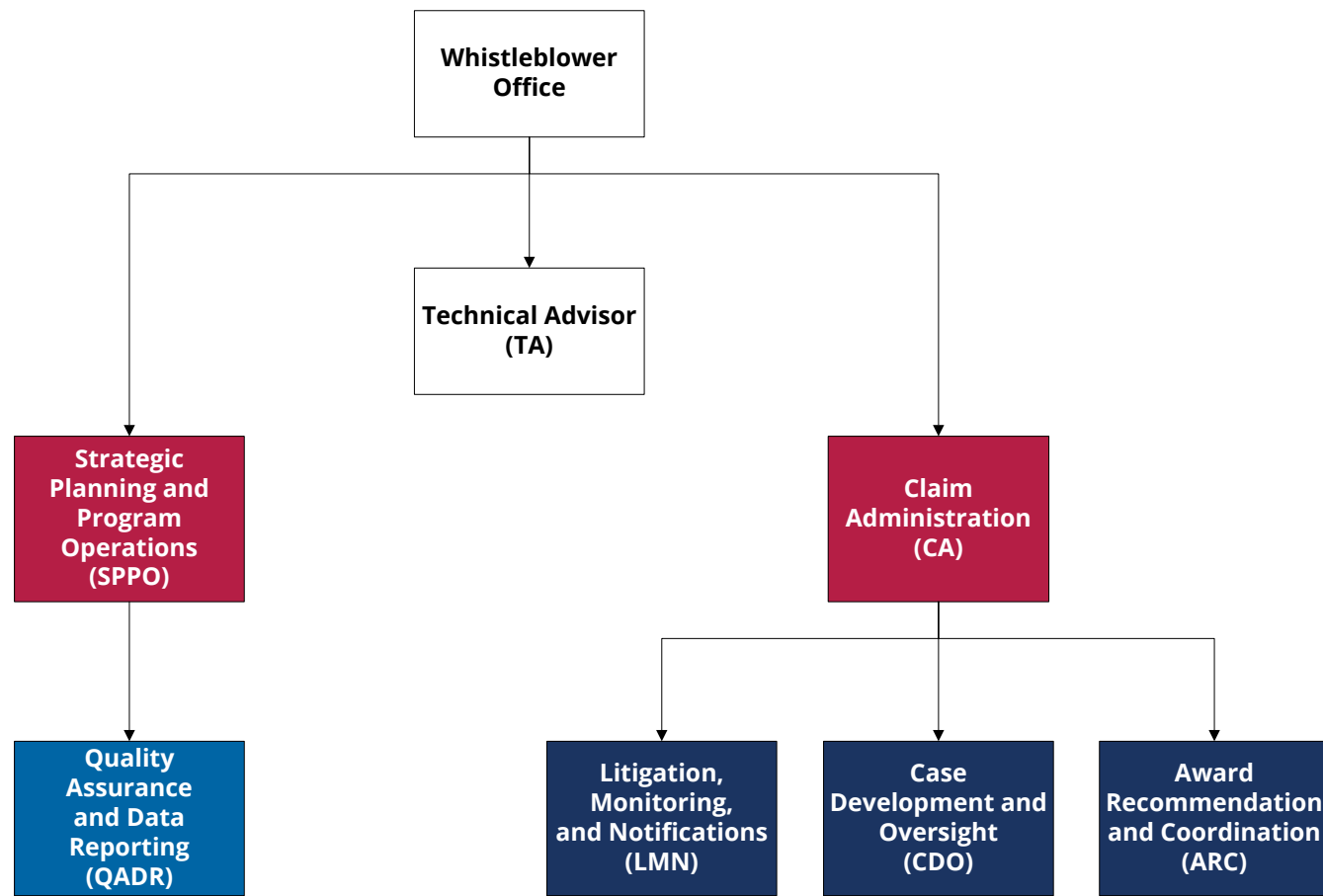
<sup>1</sup> [H.R. 748, Coronavirus Aid, Relief and Economic Security Act](#)



# STAFFING

On July 18, 2021 the Whistleblower Office underwent a reorganization to better serve whistleblowers and to accommodate program growth. Under the reorganization, Strategic Planning and Program Administration became Strategic Planning and Program Operations (SPPO) and created the sub-group Quality Assurance and Data Reporting (QADR), and a new Deputy Director position that provides oversight for both groups. Also, Claim Administration (CA) expanded into three managerial layers which now provides oversight of the sub-groups: Case Development and Oversight (CDO), Award Recommendation and Coordination (ARC), and the newly formed Litigation Monitoring and Notification (LMN) team.

The following organizational chart explains the managerial level roll-up of the Whistleblower Office after the reorganization.

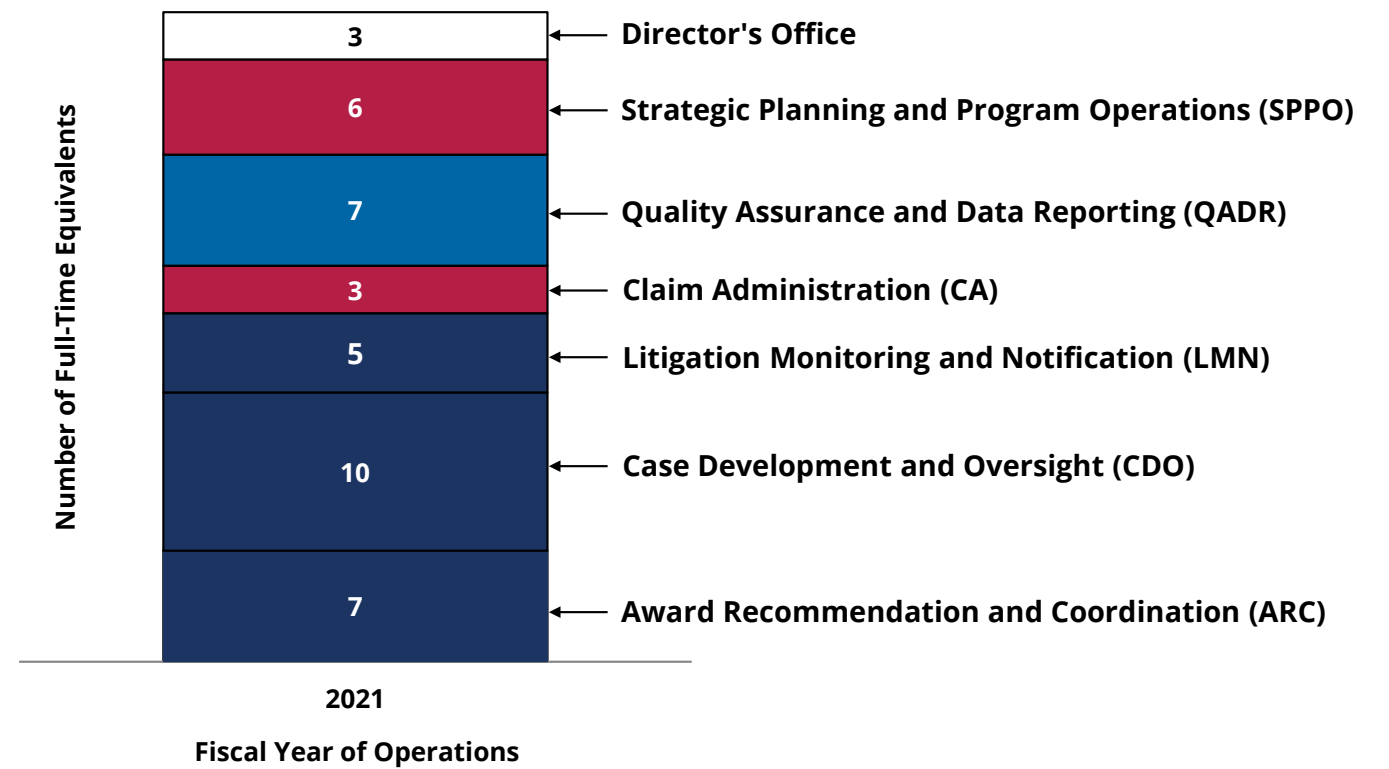


- The TA is responsible for high level, special cross-functional programs and projects, highly complex technical issues, as delegated by the Director.
- SPPO is responsible for administration of budget, policy and procedure guidance, personnel, staffing activities, and strategic planning, for the Whistleblower Office.

- QADR provides quality assurance reviews of various aspects of the Whistleblower Program, data validation, and preparation of the Annual Report to Congress.
- CA is primarily responsible for direction, guidance, and oversight of LMN, CDO, and ARC.
- LMN provides litigation support, payment monitoring, and required TFA 2019 Notifications for the Whistleblower Office.
- CDO is responsible for reviewing and developing information submitted by Whistleblowers, coordinating with the operating divisions (OD), and issuing complex award determinations.
- ARC provides award processing for the Whistleblower Office by reviewing the OD's examination results to evaluate the whistleblower's contribution and issues award determinations.

In FY 2021, the Whistleblower Office staff was comprised of 41 full time employees with decades of experience in a broad array of IRS compliance programs. Figure 1 displays the Whistleblower Office staffing for FY 2021 after the reorganization became effective.

**FIGURE 1: WHISTLEBLOWER OFFICE STAFFING, FISCAL YEAR 2021**



## 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, [irs.gov<sup>2</sup>](https://www.irs.gov/whistleblower), 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 June 10, 2021, the Whistleblower Office held its first ever Whistleblower Round Table Discussion. The Whistleblower Round Table Discussion allowed several industry representatives to hear directly from IRS leadership, ask questions, share thoughts and suggestions, 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 who have signed up to receive information periodically from the Whistleblower Office.

Whistleblower Office representatives deliver presentations to professional groups and conferences. By attending these functions, the Whistleblower Office obtains an outside perspective on the Whistleblower Program. The Whistleblower Office also provides consultation to other federal agencies and tax administration authorities from other nations, as they evaluate options for their own whistleblower award programs.



<sup>2</sup> <https://www.irs.gov/whistleblower>

# ADMINISTRATIVE PRIORITIES AND ISSUES

## 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. The changes to IRC § 6103(k)(13) enacted as part of TFA 2019, summarized in Table 2(B) below, provided some helpful clarification regarding the government's authority to disclose taxpayer information to whistleblowers. However, more change is needed. IRC § 6103 prohibits the IRS from disclosing taxpayer information to whistleblowers, except in the limited instances specified in the statute. IRC § 6103(k)(13), enacted as part of TFA 2019, now explicitly permits disclosures by agents to whistleblowers in order to obtain information during investigations and examinations, and permits disclosures by the Whistleblower Office to apprise whistleblowers of specified milestones during the processing of their claim.

Whistleblowers who receive this information pursuant to Section 6103(k)(13) are now subject to IRC § 6103's general prohibitions on disclosure, and to criminal sanctions if they violate IRC § 6103 by re-disclosing information provided to them by the IRS. Unfortunately, whistleblowers face no consequences for the re-disclosure of information provided to them by the IRS in other contexts. For example, the IRS makes, and will continue to make, many disclosures of taxpayer information in administrative and USTC proceedings pursuant to IRC § 6103(h)(4). The IRC does not prohibit whistleblowers from re-disclosing information provided under this authority, even though the IRS is often required by USTC discovery procedures to reveal extensive portions of the examination of collection files of the third party taxpayers that are the subjects of the whistleblower claims. Notably, these taxpayers are not parties to whistleblower litigation, and as such, they 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.

The government has no authority under the IRC to restrain whistleblowers from re-disclosing these taxpayers' information. In USTC, the only limits to the re-disclosure of returns or return information by the whistleblower are those that a judge may choose to impose in a particular case.

For example, the USTC 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 whistleblowers' violations of these orders. In addition to the shortcoming described above, 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 USTC. 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 USTC rules’ lower “relevancy” standard.

In cases where the Whistleblower Office has compiled a voluminous administrative file full of target taxpayer information to make its award determination, the process of determining which information the IRS is then authorized to disclose to the whistleblower under the “directly related” standard is tedious, time-consuming, and fraught with hazards. The stakes are further raised by the fact that whistleblowers can subsequently re-disclose anything provided to them under IRC § 6103(h)(4) with impunity, whereas the IRS might face liability if the disclosure to the whistleblower was not authorized under the “directly related” standard.

In sum, the IRS has no legal authority to restrain whistleblowers from re-disclosing third-party taxpayer information disclosed during administrative and judicial processes, nor does it have sufficient authority to provide whistleblowers with all of the information they might request.

## **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 a whistleblower’s information be brought to the Secretary’s attention and submitted under penalty of perjury. Additionally, the off-Code provisions in TRHCA 2006 establishing the Whistleblower Office require the Whistleblower Office to be responsible for initial processing of whistleblower information by providing that the Whistleblower Office “shall analyze the information received... and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office.” The Whistleblower Office understands the law to require a whistleblower to file a claim with the Whistleblower Office, bringing their information to the Secretary’s attention, before the IRS proceeds with an action based on the whistleblower’s information.

While information comes into the IRS from a wide 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 IRS 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. The Tax Court has held that a whistleblower can qualify for a section 7623(b) award by providing information to an IRS operating division or other Federal agency before filing a claim with the Whistleblower Office. See *Whistleblower 21276-13W v. Commissioner*, 144 T.C. 290, 300 (2015). Whistleblowers may understand this limited holding to provide for an open-ended period to file a claim with the Whistleblower Office based on information provided to the IRS.

IRC § 7623(b)(3) currently refers to a “claim for award” without providing any further specifics. Clarifying the statutory claim filing requirement by linking it to a whistleblower’s information submission would strengthen the Program by ensuring that Whistleblower Office resources are devoted to processing whistleblower information and maintaining a contemporaneous record of the IRS’s use of whistleblower information. This would also ensure that whistleblowers are

properly classified as such and immediately receive all the whistleblower protections afforded by the IRS when they submit information.

## **ALLOWING INFORMATION SHARING WITHIN GOVERNMENT COULD ENHANCE IRS ABILITY TO USE INFORMATION AND MAKE AWARDS**

The Whistleblower Office is required to determine awards when the Secretary proceeds with an action based on a whistleblower’s information and collects proceeds. IRC § 7623(c) defines “proceeds” to include amounts collected outside of Title 26, meaning that other agencies or government entities may be a source of proceeds. The Whistleblower Office has no express investigatory ability to acquire information from these other agencies or government entities, despite their potential involvement in an action for which an award is payable. Statutory provisions giving the Whistleblower Office investigatory authority would ensure that the Whistleblower Office can appropriately determine mandatory awards on proceeds under IRC § 7623(c).

Separately, the Whistleblower Office faces limitations on the information that it can share with other agencies and government entities. This includes the Department of Labor, acting in its enforcement role under IRC § 7623(d), and other government agencies applying separate, but at times interrelated, whistleblower provisions. Provisions that allowed information sharing within the federal government for purposes of applying the whistleblower provisions would enhance the IRS’s ability to use information and make awards under IRC § 7623.

## **SIGNIFICANT ADMINISTRATIVE RESOURCES MUST BE ALLOCATED TO CLAIMS INVOLVING INFORMATION NOT USED BY THE IRS**

The Whistleblower Office and IRS use significant resources to address repeat claim filings from the same individuals, who continue to submit information to the IRS after being informed that the agency is not interested in pursuing their information. The administrative burdens of these claims far outweigh any benefit of the information to the IRS.

The Whistleblower Office must expend resources responding to these claimants (often repeatedly), maintaining records, and engaging in litigation to defend an administrative, enforcement decision not to pursue the information provided. The USTC’s review of any dispositive communication issued by the Whistleblower Office compounds the administrative burden of these claims on the agency.

## **LEGISLATIVE CHANGES RESULTING IN OVERLAPPING WHISTLEBLOWER STATUTES**

In January 2021, Congress passed the William M. (Mac) Thornberry National Defense Authorization Act for FY 2021 (NDAA 2021). Included in Section 6314 of NDAA 2021 was a substantial modification to Financial Crimes Enforcement Network’s (FinCEN) whistleblower statute (31 U.S.C. § 5323). Among other things, 31 U.S.C. § 5323 provides for a whistleblower award for monetary sanctions under Title 31, Chapter 53, subchapters II and III. This includes FBAR Penalties. In BBA 2018, Congress modified IRC § 7623 to include whistleblower awards for FBAR penalties. Both statutes authorize awards for the recovery of FBAR penalties.



# 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 YEAR 2021

**Table 1** provides 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 2021 were 5.7% of the amount that would otherwise have been payable. Sequestration reductions totaling \$2,060,261 were applied to awards paid during FY 2021.

Since 2007, the Whistleblower Office made awards in excess of \$1.05 billion based on the collection of \$6.39 billion. In FY 2021, the IRS made 179 awards, totaling \$36,144,926 prior to the sequestration reduction; the total award amount represents 14.7% of total amounts collected. In FY 2021, 20 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, 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 disclosure of confidential taxpayer return information.

**TABLE 1: AMOUNTS COLLECTED AND AWARDS UNDER IRC § 7623, FISCAL YEAR 2021**

	IRC § 7623(a)	IRC § 7623(b)	TOTAL
<b>Claims Related to Awards</b>	<b>380</b>	<b>265</b>	<b>645</b>
<b>Number of Awards</b>	<b>159</b>	<b>20</b>	<b>179</b>
<b>Amounts of Awards<sup>3</sup></b>	<b>\$8,846,179</b>	<b>\$27,298,747</b>	<b>\$36,144,926</b>
<b>Proceeds Collected</b>	<b>\$129,956,034</b>	<b>\$115,347,612</b>	<b>\$245,303,646</b>
<b>Awards as a Percentage of Proceeds Collected<sup>4</sup></b>	<b>6.8%</b>	<b>23.7%</b>	<b>14.7%</b>

**NOTE:** Data reported as of September 30, 2021

<sup>3</sup> "Total Amount of Awards" is prior to the sequestration reduction.

<sup>4</sup> In FY 2021 there were two Pre-enactment IRC § 7623(a) awards which were capped at \$2 million dollars causing the "Awards as a Percentage of Proceeds" to be lower.

# IRC § 7623 PAYMENT AND CLAIM PROCESSING ANALYSIS, FISCAL YEAR 2021

The Whistleblower Office strives to issue award payments as promptly as circumstances permit. Treasury Regulation Section 301.7623-4, which governs payment of whistleblower awards, does not permit issuing the payment until there has been a final determination of tax with respect to the actions, the Whistleblower Office has determined the award, and either all appeals of the Whistleblower Office’s determination are final or the whistleblower signed the waiver agreeing to the determination. The Whistleblower Office measures timeliness of the payments based on how many days it takes to issue payment once these requirements are met.

Figure 2(A) below provides an analysis of timeliness for IRC § 7623 awards paid in FY 2021 based on the earliest date an award payment is permitted.

**FIGURE 2(A): IRC § 7623 PAYMENT PROCESSING ANALYSIS**

<b>Average Days to Issue IRC § 7623(a) Payment</b>	<b>51</b>
<b>Number of IRC § 7623(a) Award Payments</b>	<b>159</b>
<b>Average Days to Issue IRC § 7623(b) Payment</b>	<b>17</b>
<b>Number of IRC § 7623(b) Award Payments</b>	<b>20</b>

Figure 2(B) provides the average years from claim receipt to award payment for IRC § 7623(a) and IRC § 7623(b) awards in FY 2021.

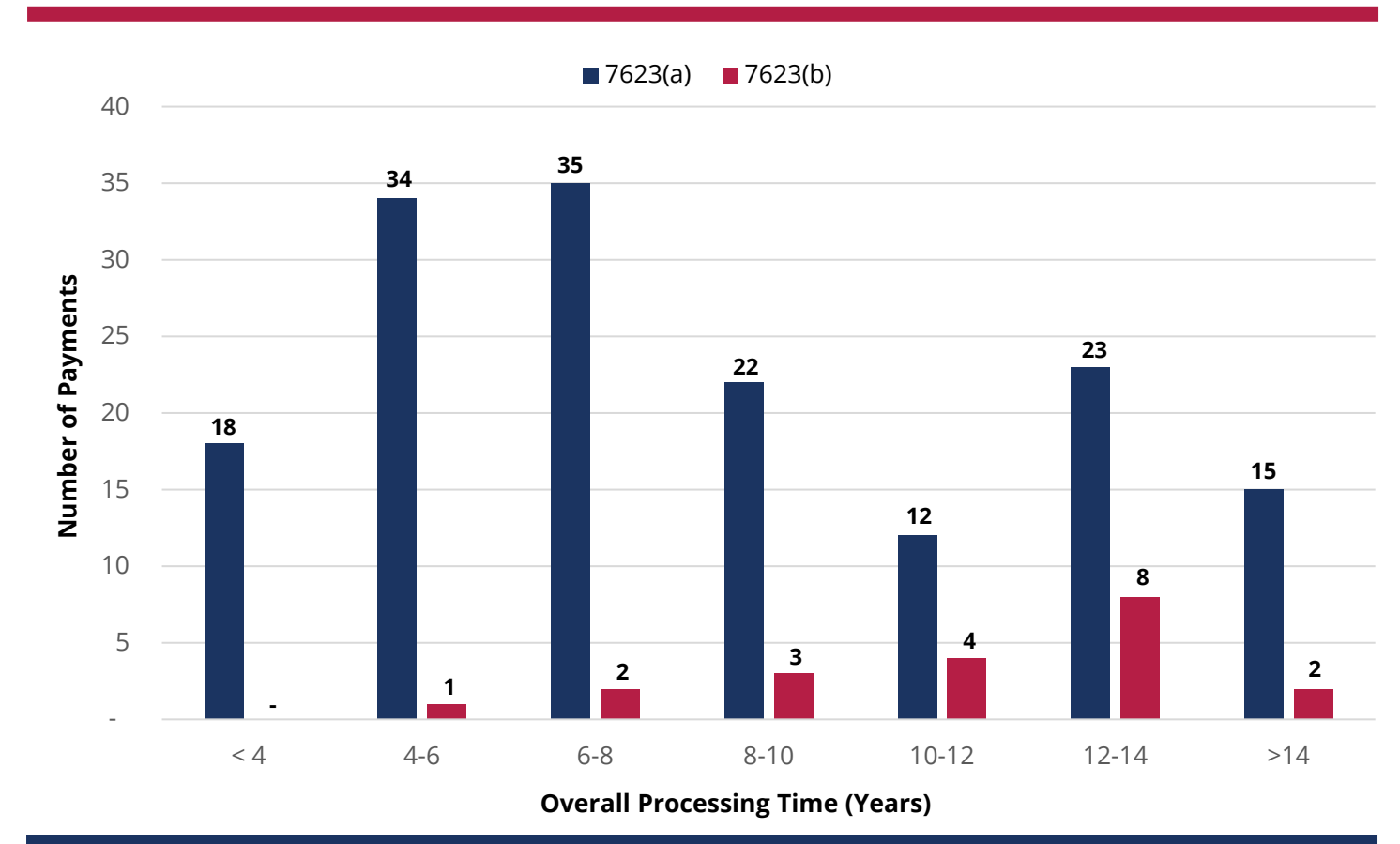
**FIGURE 2(B): AVERAGE YEARS FROM CLAIM RECEIPT TO AWARD PAYMENT BY CLAIM TYPE, FISCAL YEAR 2021**



Average claim processing time for IRC § 7623(b) award payments made during FY 2021 increased by 2.9% from the prior year and average claim processing time for IRC § 7623(a) award payments increased by 10.4%. Claim processing time is measured by comparing the date the Form 211 is received (start date) and the date the award is paid (end date). There is a high likelihood that the average claim processing times will continue to increase as claim inventory continues to age while the Whistleblower Office awaits audits, exams, investigations, appeals, tech services, collection, statutes to expire, and whistleblower litigation.

Figure 2(C) provides a breakdown of the overall processing time (in years) from claim receipt to award payment for each IRC § 7623(a)<sup>5</sup> and IRC § 7623(b) award paid in FY 2021.

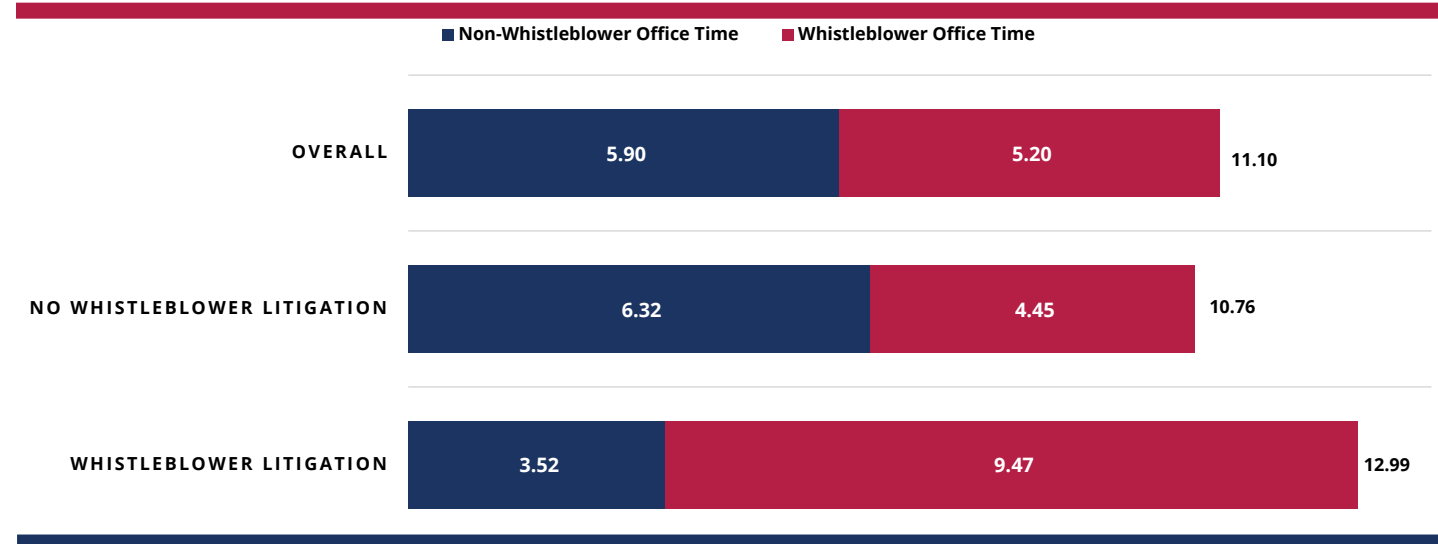
**FIGURE 2(C): CLAIM PROCESSING BREAKDOWN FROM CLAIM RECEIPT TO AWARD PAYMENT BY CLAIM TYPE, FISCAL YEAR 2021**



<sup>5</sup> The Whistleblower Office has IRC § 7623(a) claims that predate the startup of the IRS Whistleblower Program on December 20, 2006.

**Figure 2(D)** provides additional analysis of claim processing times for IRC § 7623(b) awards paid in FY 2021. Processing time is illustrated in three different averages: ‘Overall’ (the average claim processing time for all 20 determinations), ‘No Whistleblower Litigation’ (the average claim processing time for the claims where the whistleblower either signed the waiver agreeing with the award determination or didn’t petition the USTC over the award determination), and ‘Whistleblower Litigation’ (the average claim processing time for the determinations where the whistleblower litigated the award determination). The graphic also shows how much of the average claim processing time for these determinations lapsed while the claim was being worked by the Whistleblower Office versus other functions.

**FIGURE 2(D): IRC § 7623(B) AWARD CLAIM PROCESSING TIME (IN YEARS)**

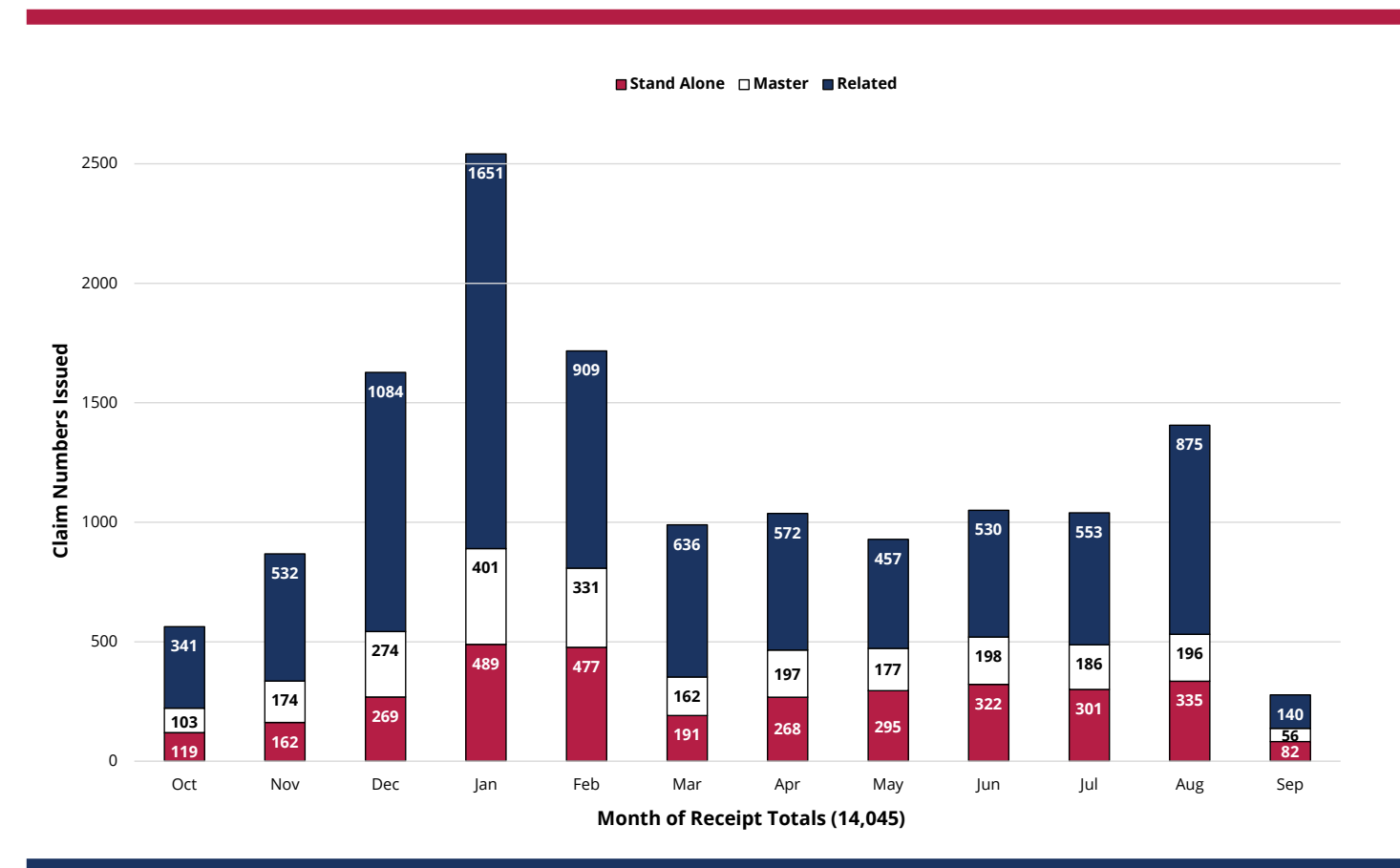


The ‘Non-Whistleblower Office Time’ consists of OD Classification/Subject Matter Expert (SME) reviews, OD Field Exam, Taxpayer Appeals/Litigation, and Technical Services (primarily TEFRA and statutory notice of deficiency processing). The ‘Whistleblower Office Time’ primarily consists of monitoring for collection, award evaluation, waiting for the final determination of tax, and waiting for whistleblower litigation to be resolved. The Whistleblower Office has no control over how quickly proceeds are collected, the timing of the final determination of tax, or whistleblower litigation.

## TOTAL STAND-ALONE, MASTER, AND RELATED CLAIM NUMBERS BY MONTH IN FISCAL YEAR 2021

**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 2021. 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 2021**



## TEN MOST COMMON ALLEGATIONS SUBMITTED IN FISCAL YEAR 2021

**Table 2(A)** displays the ten most common allegations submitted on Form 211 for FY 2021. The Whistleblower Office began capturing data for Table 2(A) on June 1, 2021.

**TABLE 2(A): TEN MOST COMMON ALLEGATIONS SUBMITTED IN FISCAL YEAR 2021**

Ranking	Allegation
1	Unreported Income
2	General Allegations of Fraud, Tax Fraud, Wire Fraud, Insurance Fraud, Etc.
3	False Dependent Exemptions
4	Employee vs. Subcontractor
5	Failure to File
6	Wage Under Reporter
7	Capital Gains Tax
8	Wages Being Paid in Cash/Under the Table
9	Rental Income
10	False Deductions/Expenses

**NOTE:** Data reported as of September 30, 2021

## DISCLOSURES MADE UNDER TAXPAYER FIRST ACT IN FISCAL YEAR 2021

**Table 2(B)** explains the three types of disclosures made by the Whistleblower Office under IRC § 6103(k)(13) which was enacted as part of the TFA 2019 of 2019 on July 1, 2019. The Whistleblower Office's disclosure responsibilities are as follows:

- Referred for an Audit or Exam– A notice to the whistleblower the information they provided has been referred for an audit or examination,
- Payment of Tax – A notice to the whistleblower if a payment of tax is received for a tax liability related to information provided by the whistleblower, and
- Status and Stage Letter(s)– A notice to the whistleblower on the status and stage of any action related to the information provided by the whistleblower.

The Referred to Audit notice is sent out by the Whistleblower Office when an OD notifies the Whistleblower Office a Form 211, is being sent out to the field for an examination. The Payment of Tax notice is sent out by the Whistleblower Office after the Whistleblower Office determines the payment is a payment of tax on an assessment related to information provided by the whistleblower. Subject to requirements and conditions prescribed by the Secretary, the Status and Stage notice is sent out as a response to a whistleblower's written request for status and stage information. All notices are provided to the whistleblower. If the whistleblower has a Power of Attorney (POA), then a copy of the notice may be provided to the POA.

**TABLE 2(B): DISCLOSURES MADE UNDER TAXPAYER FIRST ACT IN FISCAL YEAR 2021**

Disclosure Purpose	Number of Disclosures
Referred for an Audit or Exam Notice <sup>6</sup>	1,038
Payment of Tax Notice	1,787
Status and Stage Letter(s)	1,983
<b>Totals</b>	<b>4,808</b>

**NOTE:** Data reported as of September 30, 2021

- 6 The Whistleblower Office issues a "Referred for an Audit or Exam Notice" as prescribed under TFA 2019. The count 'Referred for an Audit or Exam Notice' is determined by the actual notices sent out during the fiscal year. These notices are sent within 60 days of the date the whistleblower information is forwarded for an audit or examination. The count 'Total Receipts Sent to Field' on Table 2(D) is determined by the date the claim is referred to the field for audit or examination, not the date the notice is sent to the whistleblower. The 'Total Receipts Sent to Field' on Table 2(D) also include claims referred for an action other than an audit or examination. The Whistleblower Office, in accordance with TFA 2019, only sends a notice when claims are referred for an audit or examination because of these differences, the numbers for 'Referred for an Audit or Exam Notice' will not match the numbers from 'Total Receipts Sent to Field' on Table 2(D).



## FISCAL YEAR 2021 RECEIPTS, BY OPERATING DIVISION

**Table 2(C)** provides additional information on submissions received in FY 2021. This table identifies the IRS OD's to which claim numbers are assigned. 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 OD'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 sources of income or other matters where referral to a civil OD would not be appropriate.

The table also identifies the claim types. Claims listed as IRC § 7623(b) include any claims with allegations in excess of the \$2 million threshold under IRC § 7623(b)(5)(B), with all others classified as IRC § 7623(a) claims.

**TABLE 2(C): FISCAL YEAR 2021 RECEIPTS, BY OPERATING DIVISION**

Operating Division		Claim Type <sup>7</sup>		Total
		7623(a)	7623(b)	
CI	Submissions	40	52	92
	Claim Numbers	94	287	381
LB&I	Submissions	243	157	400
	Claim Numbers	1,291	576	1,867
SB/SE	Submissions	4,095	252	4,347
	Claim Numbers	9,846	1,249	11,095
TE/GE	Submissions	215	16	231
	Claim Numbers	651	37	688
Other	Submissions	9	1	10
	Claim Numbers	11	3	14
Total Submissions		4,602	478	5,080
Total Claim Numbers		11,893	2,152	14,045

**NOTE:** Data reported as of September 30, 2021

## RECEIPTS SELECTED BY OPERATING DIVISIONS FOR REFERRAL TO EXAMINATION IN FISCAL YEAR 2021

**Table 2(D)** shows the percentage of the claims selected by the OD's for referral to field examination as of September 30, 2021.

**TABLE 2(D): RECEIPTS SELECTED BY OPERATING DIVISIONS FOR REFERRAL TO EXAMINATION IN FY 2021**

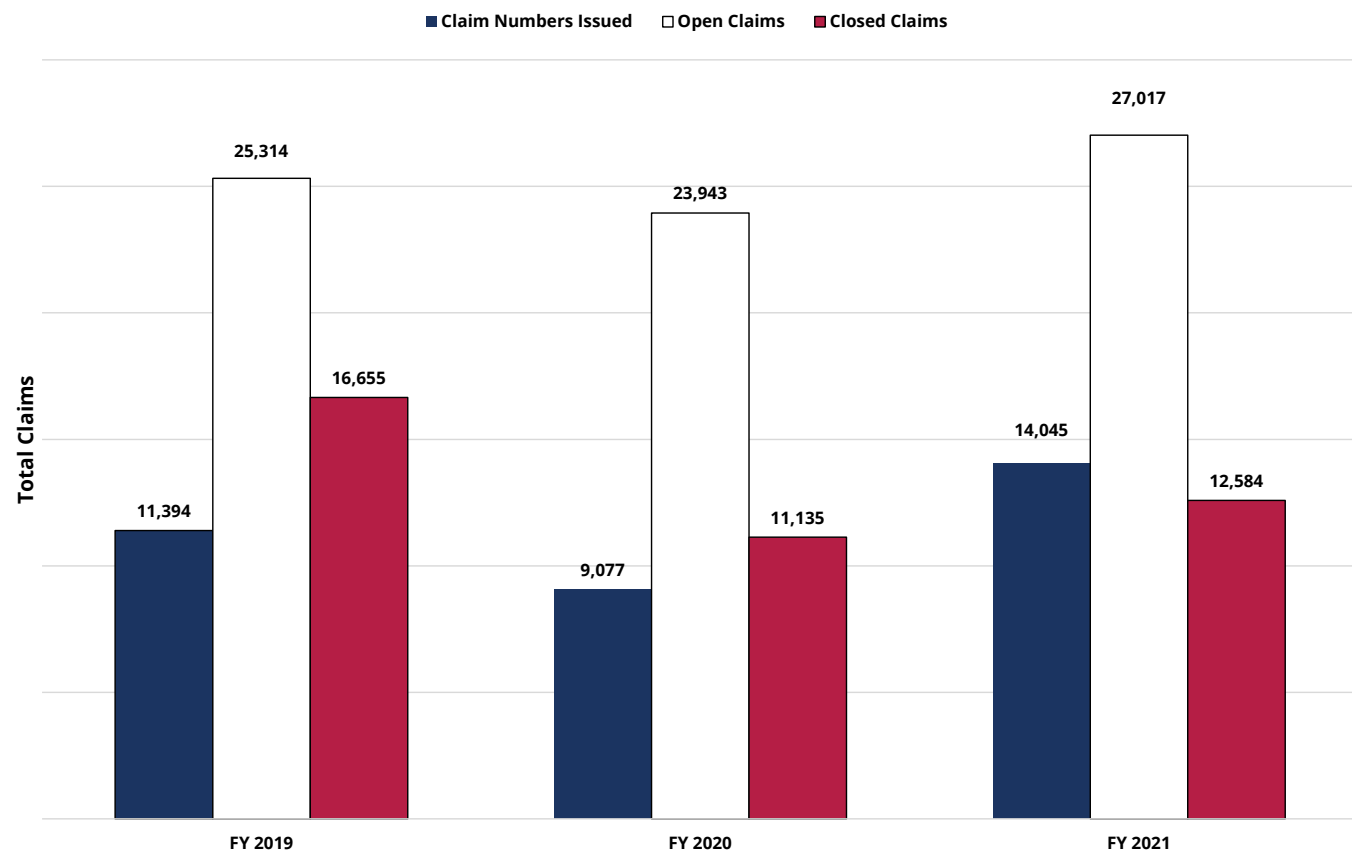
Operating Division	Claim Type	Receipts	Total Receipts Sent to Field	Percentage of Total Receipts Sent to Field
CI	7623 (a)	94	61	64.89%
	7623 (b)	287	284	98.95%
LB&I	7623 (a)	1,291	22	1.70%
	7623 (b)	576	117	20.31%
SB/SE	7623 (a)	9,846	706	7.17%
	7623 (b)	1,249	84	6.73%
TE/GE	7623 (a)	651	14	2.15%
	7623 (b)	37	7	18.92%
Other	7623 (a)	11	1	9.09%
	7623 (b)	3	-	0.00%
Total		14,045	1,296	9.23%

<sup>7</sup> 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.

# CLAIM NUMBERS ISSUED, OPEN, AND CLOSED, FISCAL YEARS 2019 TO 2021

Figure 4(A) provides information on claim numbers issued, claims remaining open, and claims that were closed in each fiscal year from 2019 to 2021.

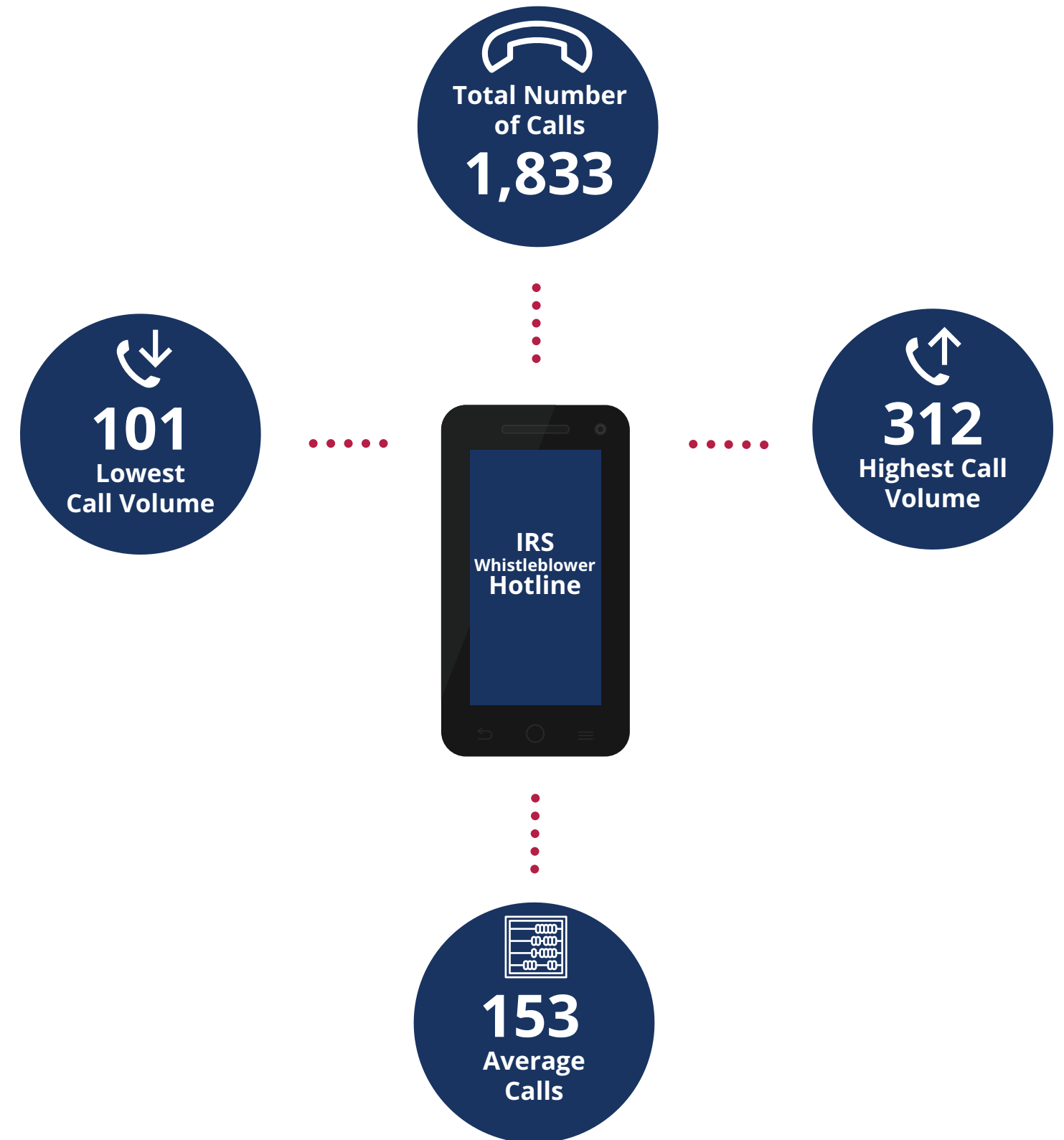
FIGURE 4A: CLAIM NUMBERS ISSUED, OPEN, AND CLOSED<sup>8</sup>



<sup>8</sup> The data presented in this table is captured as of September 30 of the respective fiscal year and is a snapshot in time.

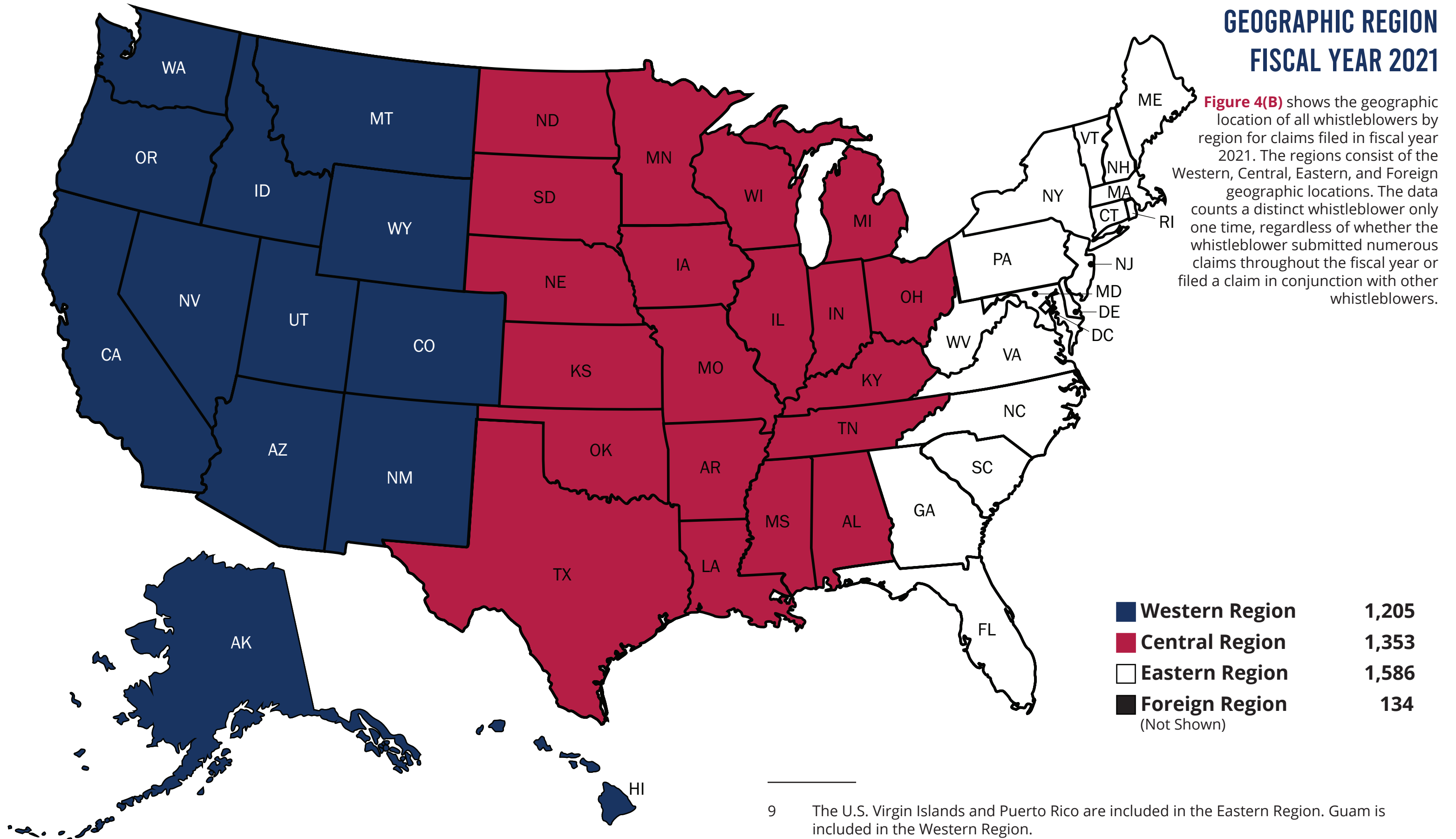
# IRS WHISTLEBLOWER OFFICE HOTLINE STATISTICS

The graphic below represents the total number of calls, the average number of monthly calls, and the highest and lowest monthly call volumes for FY 2021.



**FIGURE 4B: NUMBER OF WHISTLEBLOWERS BY GEOGRAPHIC REGION<sup>9</sup>**

## WHISTLEBLOWERS BY GEOGRAPHIC REGION FISCAL YEAR 2021



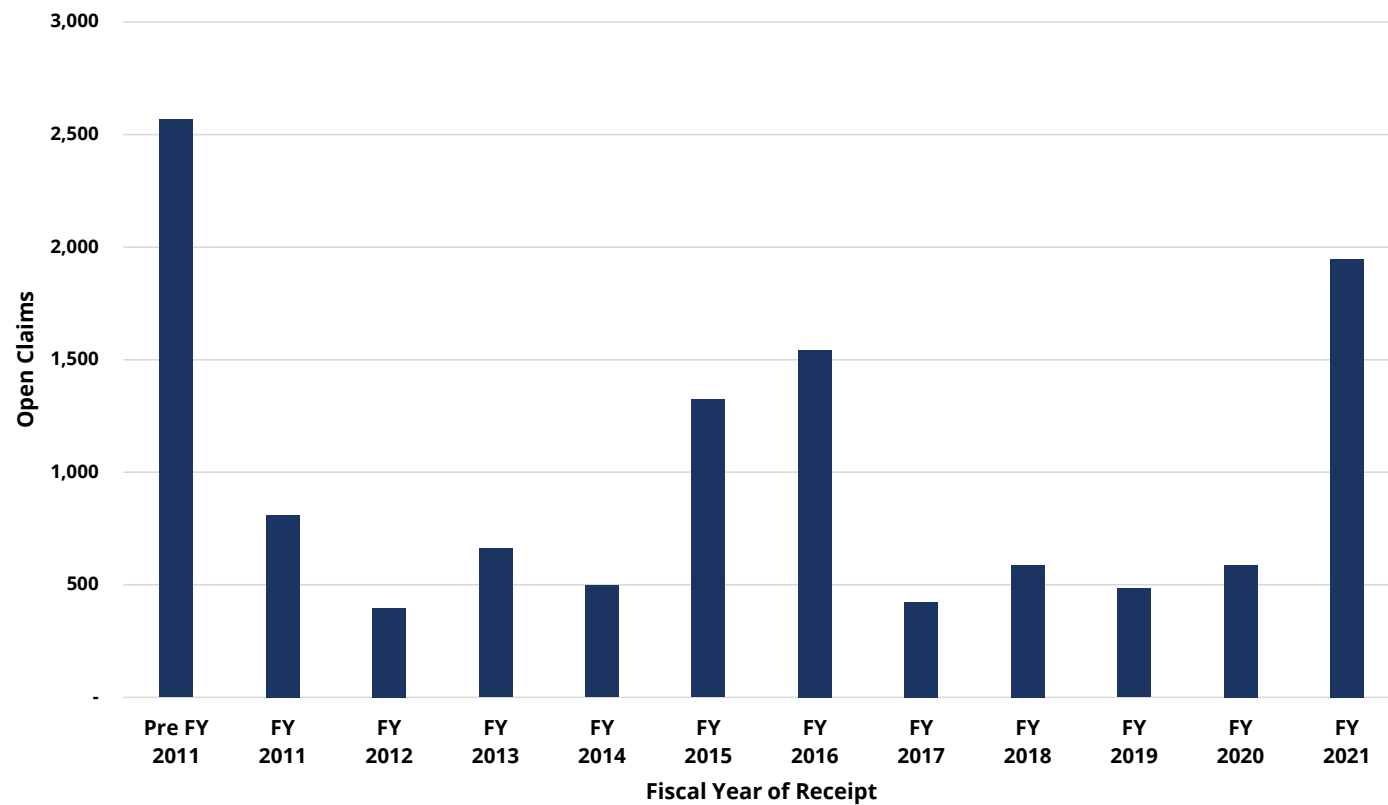
<sup>9</sup> The U.S. Virgin Islands and Puerto Rico are included in the Eastern Region. Guam is included in the Western Region.

## OPEN IRC § 7623(B) CLAIMS AS OF FISCAL YEAR 2021

**Figure 5** shows the number of IRC § 7623(b) claims remaining open as of September 30, 2021, by year received. The Whistleblower Office uses information alleged 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 initial designation as a potential IRC § 7623(b) claim is reevaluated throughout the processing of the claim. 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 SME's in the IRS OD's.

The SME then determines whether the whistleblower's information will be provided to field offices for further review, 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 2021, 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, 2021.

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

Processes <sup>10</sup>	Claim Numbers
Intake/Classification 7623(a)	1,839
7623(b)	320
OD Field 7623(a)	2,794
7623(b)	2,786
OD Field/Suspense 7623(a)	6,041
7623(b)	5,238
Appeals 7623(a)	205
7623(b)	307
Preliminary Award Evaluation 7623(a)	278
7623(b)	879
Interim Award Assessment 7623(a)	701
7623(b)	277
Collection/Suspense 7623(a)	2,904
7623(b)	779
Award/Suspense 7623(a)	349
7623(b)	539
Final Review 7623(a)	15
7623(b)	652
Litigation <sup>11</sup> 7623(a)	64
7623(b)	50
<b>Total</b>	<b>27,017</b>

**NOTE:** Data reported as of September 30, 2021

<sup>10</sup> Refer to the "Glossary of Terms" for a complete description of the processing phases outlined under the "Processes" listed Table 3.

<sup>11</sup> 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

OD Field stage includes claims assigned to the various OD's for evaluation.

### ► 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 2021

**Table 4** provides a summary of the closure reasons for closures that occurred during FY 2021. The data was grouped into similar categories and is displayed as a percentage of the total closures. In FY 2021, the Whistleblower Office closed 12,584 claims, a 13% increase from FY 2020 closures.

**TABLE 4: FY 2021 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	4,402	35%	125
Claim Denied - No Actionable Issue	1,892	15%	160
Claim Denied - Issues Below Threshold for IRS Action	1,432	11%	167
Claim Rejected - Failure to Sign Form 211 Under Penalties of Perjury, or Incomplete Form 211	1,092	9%	84
Claim Denied - Examination Result Was "No Change" or Whistleblower Issues Was "No Change"	770	6%	2,190
Claim Denied - Insufficient Time Remaining on Statute of Limitations or Statute Expired Before Form 211 Submission	746	6%	341
Claims Paid in Full in 2021	645	5%	3,516
Claim Rejected - No Tax Issue	525	4%	78
Claim Denied - Surveyed by Operating Division	500	4%	958
Anonymous Referred to 3949-A Program	177	1%	28
Administrative Error - (Duplicate Records Created in Error)	108	Less than 1%	247
Claim Denied - No Collected Proceeds (Uncollectible)	91	Less than 1%	2,614
Claim Denied - Information Already Known	54	Less than 1%	1,822
Closed - Unable to Contact/Undeliverable Whistleblower	45	Less than 1%	2,881
Closed - Failure to File Form 211	41	Less than 1%	312
Closed - Other (Used as a General Closure That Does Not Fall Within One of The Specific Closure Reasons)	32	Less than 1%	739
Claim Rejected - Ineligible Whistleblower	15	Less than 1%	174
Deceased Whistleblower Claims	10	Less than 1%	4,553
Closed - Non-Compliant Whistleblower	7	Less than 1%	3,110
<b>Total Closures</b>	<b>12,584</b>	<b>100%</b>	

**NOTE:** Data reported as of September 30, 2021

