



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2010 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS

Issued on July 23, 2010

Highlights

Highlights of Report Number: 2010-30-073 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement and Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

Congress enacted Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section 3707 to prohibit the IRS from labeling taxpayers as Illegal Tax Protesters or any similar designations. However, IRS employees continue to refer to taxpayers by these designations in case narratives. Using Illegal Tax Protester or other similar designations may stigmatize taxpayers and may cause employee bias in future contacts with these taxpayers.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually evaluate compliance with the prohibition against using Illegal Tax Protester or similar designations. Prior to enactment of the RRA 98, the IRS used the Illegal Tax Protester Program to identify individuals and businesses using methods that were not legally valid to protest the tax laws. IRS employees referred taxpayers to the Illegal Tax Protester Program when their returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts.

Congress enacted the prohibition against Illegal Tax Protester designations because it was concerned that some taxpayers were being permanently labeled as Illegal Tax Protesters even though they had subsequently become compliant with the tax laws. The label could bias IRS employees and result in unfair treatment.

The purpose of our audit was to determine whether the IRS complied with RRA 98 Section 3707 and internal guidelines that prohibit officers and employees from referring to taxpayers as Illegal Tax Protester and similar designations.

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WHAT TIGTA FOUND

The IRS has not reintroduced past Illegal Tax Protester codes or similar designations on taxpayer accounts. In addition, IRS publications and the Internal Revenue Manual no longer contain any Illegal Tax Protester references. However, TIGTA found that out of approximately 80.6 million records and cases, there were 196 instances in which 163 employees had referred to taxpayers as "Tax Protester," "Constitutionally Challenged," or other similar designations in case narratives on the computer systems analyzed.

The IRS did take the positive step of modifying the Integrated Collection System so that prohibited protester designations could not be entered into case histories. This is significant because this system has historically accounted for a large number of the exceptions TIGTA identified in prior reviews. The IRS should be commended for taking this action to protect taxpayer rights.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report.

In their response to the report, IRS management disagreed that the references listed in the report are potential violations. However, management continues to discourage employees from using such designations when referring to taxpayers.

TIGTA continues to believe the use of Illegal Tax Protester, or similar designations, may stigmatize taxpayers because electronic case narratives are available to other IRS employees for future reference and may affect the opinions and actions of employees working cases.

READ THE FULL REPORT

To view the report, including the scope and methodology, go to:

<http://www.treas.gov/tigta/auditreports/2010reports/201030073fr.pdf>

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