



*Fiscal Year 2009 Statutory Audit of
Compliance With Notifying Taxpayers
of Their Rights When Requested to
Extend the Assessment Statute*

August 3, 2009

Reference Number: 2009-30-113

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

1 = Tax Return/Return Information



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 3, 2009

MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Fiscal Year 2009 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When Requested to Extend
the Assessment Statute (Audit # 200930005)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) was complying with Internal Revenue Code Section 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to specific issues or a specific period of time. The Treasury Inspector General for Tax Administration is required to provide information annually regarding the IRS' compliance with this provision.¹

Impact on the Taxpayer

The IRS is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. In passing this law, Congress expressed concern that taxpayers were not being advised adequately of their rights to refuse to extend the statute of limitations or to request that a statute extension be limited to specific issues or a specific period of time. Based on the results of our review, we believe that the IRS is complying with the intent of the statute. However, there were still some instances in which IRS employees did not document whether taxpayers or their representatives were advised of these rights. Taxpayers might be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to statute extensions.

¹ Internal Revenue Code Section 7803(d)(1)(c) (2000 Suppl. 2).



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Synopsis

The IRS has shown improvement over prior years when documenting that taxpayers were informed of their rights. The percentage of case files without documentation decreased from Fiscal Year 2005 to Fiscal Year 2008, remaining the same in Fiscal Year 2009. However, there were still instances in which there was no documentation in the related case files to show that taxpayers were advised of their rights regarding assessment statute extensions. In our statistical sample of 112 tax returns, 7 (6 percent) of the related case files reviewed did not contain sufficient documentation that the taxpayers had been advised of their rights regarding assessment statute extensions.

Cases without documentation that taxpayers were informed of their rights decreased from 20 percent in Fiscal Year 2005 to 6 percent in Fiscal Year 2009.

Our discussion with IRS management officials determined that employees followed IRS procedures that when a taxpayer asked them to deal with his or her representative, the employees did so exclusively. Because the taxpayer did not want to be involved in the audit process, the employees informed only the representative of the taxpayer's rights. This is consistent with the IRS position that informing a taxpayer's representative meets the requirement that the taxpayer be informed.

In addition, our sample included 67 case files with authorizations for third-party representation. We found that 7 (10 percent)² of the 67 case files did not contain sufficient documentation that the taxpayers' representatives were provided with the required notifications. For these cases, IRS management officials informed us that some employees may have overlooked the fact that the required information was not documented in the case file or the documents got separated from the case files.

Response

Although we made no recommendations in this report, we provided IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report conclusions. Please contact me at (202) 622-6510 if you have questions or Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.

² The actual percentage is 10.45 percent, as described in the calculation in Appendix IV.



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Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998



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Background

The Internal Revenue Service (IRS) is required by the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ and the Internal Revenue Code (I.R.C.)² to advise taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties. When the IRS audits a tax return and determines that there is an additional tax liability, the additional tax assessment must generally be processed within 3 years from the date the return was due or from the date on which the return was actually filed, whichever is later. This 3-year assessment statute of limitations normally cannot be extended without the taxpayer's written consent.³ To extend the statute, the IRS generally requests that the taxpayer(s) provide a signed consent form, either Consent to Extend the Time to Assess Tax (Form 872) or Consent to Extend the Time to Assess Employment Taxes (Form SS-10).⁴

The IRS is required to advise taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties.

These consents extend the assessment statute of limitations to either a specific period of time or an unlimited, indefinite period. The statute is usually extended for a period that both the IRS and the taxpayer agree is reasonable to complete the examination. The consent can also be negotiated to apply only to certain audit issues.

In passing the RRA 98, Congress expressed concern that taxpayers had not always been fully aware of their rights to refuse to extend the statute of limitations or to request that a statute extension be limited to specific issues or a specific period of time. Some taxpayers might believe that they are required to agree to an extension upon the request of the IRS. Congress wanted to ensure that taxpayers were informed of their rights to refuse the proposed statute extension or to have it limited.

¹ RRA 98 Section (§) 3461 (b)(2)(B), Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² I.R.C. § 6501(c)(4)(B).

³ There are some exceptions to the 3-year statute of limitations. For example, I.R.C. § 6501(c)(1) extends the assessment statute indefinitely when false or fraudulent returns are filed.

⁴ IRS employees who most often request assessment statute extensions are examiners in the various Examination functions of the business divisions and appeals officers in the Office of Appeals.



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A taxpayer might agree to extend the assessment statute of limitations for the following reasons:

- The taxpayer might want to pursue additional audit issues that are in the taxpayer's favor in offsetting a proposed tax assessment or that might allow for a tax refund.
- If the remaining time before the statute expires is too short, the IRS might have to prematurely stop the audit process and issue a notice of deficiency that limits the time for the normal appeals process before the taxpayer must file a petition with the United States Tax Court.

A taxpayer might decide to limit or refuse to extend the assessment statute of limitations because:

- The taxpayer might not want to provide the IRS more time to consider additional audit issues.
- The taxpayer might not want to allow the IRS the opportunity to further develop audit issues already under consideration after the normal statute period has expired.

RRA 98 Section (§) 3461 (b)(2)(B) requires the IRS to “. . . notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or

The RRA 98 requires taxpayers to be informed of their rights to refuse to extend the period of limitations or to limit the extension to specific issues or a period of time.

to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.” To implement this statutory requirement, the IRS revised its procedures to direct IRS employees to provide the taxpayer with a Request to Extend Assessment Statute (Letter 907) or Letter Transmitting Consent Extending Period of Limitation (Letter 967). Included with these Letters should be the actual consent forms to be signed and *Extending the*

Tax Assessment Period (Publication 1035). In addition, Federal regulations require that any notice or other written communication required to be given to a taxpayer in any matter before the IRS also be given to the taxpayer's representative (unless restricted by the taxpayer).⁵ IRS employees are instructed to document in their case file activity log whether the taxpayer was notified of his or her rights each time the IRS requested an assessment statute extension.

The Treasury Inspector General for Tax Administration is required by the RRA 98 to provide information annually regarding the IRS' compliance with I.R.C. § 6501(c)(4)(B). This report presents the results of our tenth annual review of the IRS' compliance with the statute extension provisions of the law.⁶ As in the previous nine reports, we continued to identify noncompliance with procedures because documentation was not adequate to support that taxpayers were advised

⁵ 26 C.F.R. § 601.506 (2002).

⁶ See Appendix V for a list of our prior reports.



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of their rights. However, compliance has improved since the IRS revised the various consent forms and incorporated them into guidelines in response to our Fiscal Year (FY) 2004 report.⁷

The consent forms were revised to include a prominent statement informing taxpayers of their rights regarding assessment statute extensions and to provide information about Publication 1035. In addition, as shown in Figure 1, the revised consent forms include a statement for the taxpayers' representatives to sign, confirming that they were notified of their rights regarding assessment statute extensions and that the taxpayers were made aware of the same rights.

Figure 1: Excerpt From Form 872

Form 872 (Rev. Dec. 2004)	Department of the Treasury-Internal Revenue Service Consent to Extend the Time to Assess Tax	In reply refer to: Taxpayer Identification Number
-------------------------------------	--	--

Your Rights as a Taxpayer

You have the right to refuse to extend the period of limitations or limit this extension to a mutually agreed-upon issue(s) or mutually agreed-upon period of time. **Publication 1035, *Extending the Tax Assessment Period***, provides a more detailed explanation of your rights and the consequences of the choices you may make. If you have not already received a Publication 1035, the publication can be obtained, free of charge, from the IRS official who requested that you sign this consent or from the IRS' web site at www.irs.gov or by calling toll free at 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled.

YOUR SIGNATURE HERE →

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B). (Date signed)

TAXPAYER'S REPRESENTATIVE

SIGN HERE →

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B). In addition, the taxpayer(s) has been made aware of these rights. (Date signed)

Note: The wording in the Form SS-10 is consistent with that shown in Form 872.

Source: *IRS Form 872*.

This review was performed at the Office of Appeals Headquarters, Large and Mid-Size Business Division Headquarters, Small Business/Self-Employed Division Headquarters, and Tax Exempt and Government Entities Division Headquarters in Washington, D.C., during the period October 2008 through April 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

⁷ *Fiscal Year 2004 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Reference Number 2004-40-108, dated June 9, 2004).



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Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



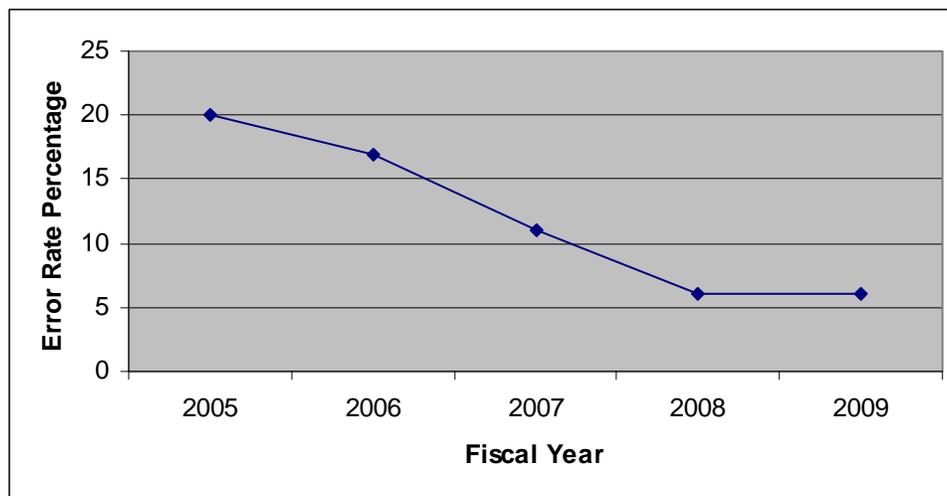
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Results of Review

The Internal Revenue Service Has Shown Improvement in Documenting That Taxpayers Were Informed of Their Rights

Over the past 5 years, the IRS has improved its compliance with requirements for documenting that taxpayers were informed of their rights to refuse to extend the statute of limitations or to limit such extension to particular issues or to a particular period of time. Specifically, as shown in Figure 2, the percentage of case files without required documentation steadily decreased from FY 2005 to FY 2008. FY 2009 had the same error rate as FY 2008.

Figure 2: Error Rate – No Documentation That Taxpayer Was Informed



Source: Prior Treasury Inspector General for Tax Administration audit reports (see Appendix V).

For FY 2009, case files for 7 (6 percent) of the 112 tax returns in our statistical sample did not contain sufficient documentation to indicate whether taxpayers were advised of their rights before consenting to extend the time to assess tax. In each of the seven cases, the taxpayer's representative signed Form 872 or Form SS-10, both of which contain a statement detailing the taxpayer's rights regarding extending the assessment statute of limitations. However, there was no evidence in the case files documenting that the taxpayers themselves were advised of their rights.

Our discussions with IRS management officials determined that employees followed IRS procedures that when a taxpayer asked them to deal with his or her representative, the employees did so exclusively. Because the taxpayer did not want to be involved in the audit process, the



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employees informed only the representative of the taxpayer's rights. The IRS believes that informing a taxpayer's representative meets the requirement that the taxpayer be informed.

Based on our sample results, from the population of 8,987 tax returns with statute extensions, we projected that documentation in 264⁸ cases was not adequate to show that taxpayers were advised of their rights. We considered that employees had advised taxpayers of their rights if any of the required documentation appeared to have been given to the taxpayers or a log entry to that effect was found in the related case files. The fact that we could not identify the required documentation in the case file does not mean the taxpayer was not informed of his or her rights. It means that, from the information available to us, we could not determine if the taxpayer was informed.

The IRS takes the position that informing only representatives of the taxpayers' rights meets the intent of the statute

The IRS did not agree with our seven exception cases. IRS management considers that the requirement was met because in each of the seven cases the taxpayer's representative was informed of the taxpayer's rights. In this and prior reviews, the IRS has taken the position that notifying a taxpayer's representative satisfies the requirement to notify the taxpayer. In response to our FY 2007 report,⁹ IRS management stated that:

The law governing principals and agents provides that the authorized representative acts for the principal based on the authority vested in the agent by the principal. Therefore, we believe the IRS complies with its statutory obligation if we provide notice to either the taxpayer or the taxpayer's authorized representative.

We believe that the language of the statute and the RRA 98 Congressional Committee report indicate that the taxpayer must be notified directly. In the Committee Report, Congress emphasized the need for taxpayers to be fully informed of their statute extension rights, stating that the Committee is concerned that in some cases taxpayer(s) have not been fully aware of their rights to refuse to extend the statute of limitations and have felt that they had no choice but to agree to extend the statute of limitations upon the request of the IRS.

As a result, RRA 98 § 3461 (b)(2)(B) emphasized that the IRS “. . . shall notify the taxpayer. . . of their rights regarding assessment statute extensions.” This wording was carried over in I.R.C. § 6501(c)(4)(B), which stated that the “. . . Secretary shall notify the taxpayer of the taxpayer's right . . .” to refuse or limit extensions. The Internal Revenue Manual states that “. . . notification must be made to the taxpayer. . . and the taxpayer's representative . . .”

⁸ This projection is an estimate of the number of exception cases in the population. We are 95 percent confident that the range is between 74 and 455 cases based on a 6 percent error rate and 2 percent precision. See Appendix IV for details.

⁹ *Fiscal Year 2007 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Reference Number 2007-40-167, dated August 31, 2007).



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The notification process is also explained in *Practice Before the IRS and Power of Attorney* (Publication 947), in which the IRS informs the taxpayer:

If you have a recognized representative, you and the representative will receive notices and other correspondence from the IRS. . . . the IRS will send your representative(s) a duplicate of all computer-generated correspondence that is sent to you. . . . The IRS employee handling the case is responsible for ensuring that the original and any requested copies of each manually-generated [sic] correspondence are sent to you and your representative(s) in accordance with your authorization.

From the statute, regulations, and IRS procedures and publications, it is clear that the expectation is for both the taxpayer and the taxpayer's representative to receive notices, including notification of the taxpayer's rights. Although a taxpayer may permit an authorized representative to receive notification in addition to that provided to the taxpayer, we found no statutory or regulatory provisions allowing the taxpayer to designate certain individuals to receive notification instead of the taxpayer.

Taxpayer rights could be negatively affected if the IRS does not comply with the RRA 98 and follow regulations and IRS procedures requiring that taxpayers be directly notified of their rights related to extensions to the assessment statute of limitations. However, while we still have a difference of legal opinion, we are making no recommendation.

Some Case Files Did Not Have Documentation That Taxpayers' Representatives Were Provided With Copies of the Notification of Taxpayer Rights

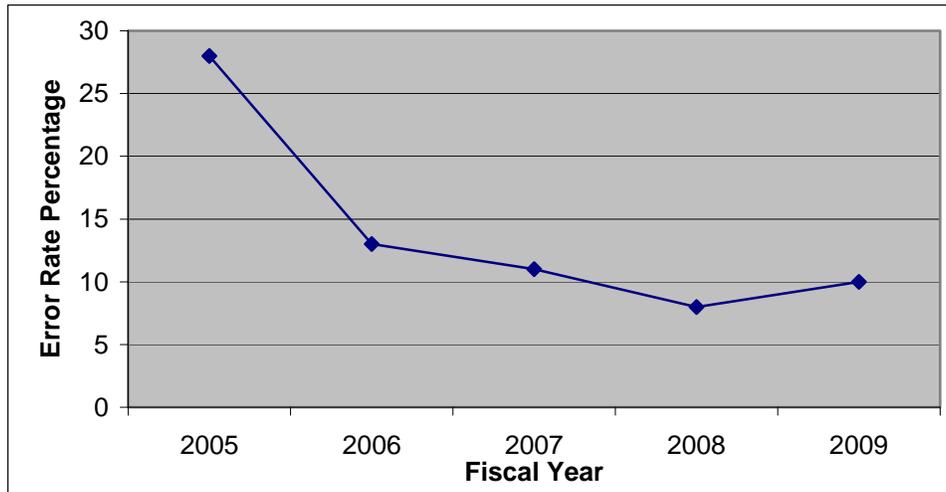
While IRS employees had documented that the taxpayers were informed of their rights and the taxpayers had signed the extensions, there were still instances in which IRS employees did not document that the taxpayer's representative was properly advised of the taxpayer's rights.

The IRS has generally improved over the years in documenting that taxpayers' representatives were informed of the taxpayers' rights to refuse to extend the statute of limitations or to limit it. However, as shown in Figure 3, in FY 2009, the error percentage increased.



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Figure 3: Error Rate – No Documentation That Representative Was Informed



Source: Prior Treasury Inspector General for Tax Administration audit reports (see Appendix V).

In our sample of 112 tax returns, 67 case files contained authorizations for third parties to represent the taxpayers before the IRS. Of these 67 cases, 7 (10 percent)¹⁰ did not contain any documentation supporting that the taxpayers’ representatives were provided with the required notifications. From an estimated population of 2,007 cases with authorized representatives, we estimated that 210¹¹ case files were not adequately documented to show that the representatives were notified in advance of taxpayer rights or given copies of written communications advising taxpayers of their rights. For these cases, IRS management officials informed us that some employees may have overlooked the fact that the required information was not documented in the case file or the documents got separated from the case files.

Federal regulations require that once a taxpayer representative has been recognized as such, he or she must be given copies of all correspondence issued to the taxpayer. This applies to all computer-generated or manually generated notices or other written communications. Without the required documentation, we could not determine if the IRS properly notified the taxpayers’ representatives in these seven cases. Taxpayers might be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers’ rights related to statute extensions.

In November 2007, IRS management issued a memorandum to employees to remind them of the requirement to send notifications to taxpayers’ authorized representatives. Although the

¹⁰ The actual percentage is 10.45 percent, as described in the calculation in Appendix IV.

¹¹ Based on an estimated population of 2,007, we are 95 percent confident that between 70 and 350 case files were not documented to show that taxpayers’ representatives were given notification advising taxpayers of their rights regarding assessment statute extensions. See Appendix IV for additional details.



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percentage of errors increased from FY 2008, our sample of cases included closed cases in which the statute of limitations were extended soon after this memorandum and it may be too early to determine if this memorandum had any effect. Therefore, we are not making any recommendations this year.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall audit objective was to determine whether the IRS was complying with I.R.C. § 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to specific issues or a specific period of time. To accomplish this objective, we:

- I. Determined whether taxpayers were being advised of their rights when the IRS requested an extension of the assessment statute.
 - A. Reviewed Internal Revenue Manual memoranda and IRS guidelines to determine whether there had been any changes to existing policies and procedures for processing requests to extend the assessment statute of limitations since our last audit.
 - B. Identified a population of 8,987 combined Business Master File and Individual Master File¹ closed examination cases with taxpayer consents to extend the assessment statute of limitations processed. The period for the Individual Master File cases was from January 1 through June 30, 2008, and for the Business Master File was from January 1 through October 31, 2008. We validated the Business Master File and Individual Master File data by examining a random sample of 50 (25 from each Master File extract) of the 8,987 records. This random sample was used for data validation and not for projecting or reporting results.

The validation test results demonstrated that the data were reliable and could be used to meet the objective of this audit. We developed a statistical sampling plan using a 95 percent confidence level, an expected error rate of 8 percent, and a precision of ± 5 percent, which resulted in a minimum sample size of 112 tax returns (closed cases). A statistical sample was taken because we wanted to estimate the number of tax returns in the population for which taxpayer rights were potentially affected.

- C. Randomly selected a sample of 112 closed cases from the population identified in Step I.B. We met our sample size of 112 cases after ordering 533 tax returns to obtain all related case files, performing extensive research on IRS computer files, and eliminating 421 tax returns that either did not meet our criteria² or for which we did not receive all

¹ The Business Master File is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes. The Individual Master File is the IRS database that maintains transactions or records of individual tax accounts.

² No consent form is required for a return that has the statute date extended for procedural issues. Our criteria required a signed consent form to be a valid sample case.



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the requested tax returns and related case files. In our sample of 112 tax return case files, 67 had authorizations for third parties to represent the taxpayers before the IRS.

- D. Reviewed the 112 selected tax returns and related case files for the necessary documentation to verify whether taxpayers and their representatives, if applicable, were properly advised of their rights regarding assessment statute extensions and whether the revised consent forms were used in the process.
- E. Discussed exceptions identified with management officials of the IRS business unit or function that had requested the extension for concurrence or an explanation of why the IRS believed that proper procedures were followed.



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Appendix II

Major Contributors to This Report

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Carl Aley, Director

Lynn Wofchuck, Audit Manager

Cristina Johnson, Lead Auditor

Doris Cervantes, Senior Auditor

Joseph Snyder, Senior Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Large and Mid-Size Business Division SE:LM
Commissioner, Small Business/Self-Employed Division SE:S
Commissioner, Tax Exempt and Government Entities Division SE:T
Chief, Appeals AP
Chief Counsel CC
Deputy Commissioner, Large and Mid-Size Business Division SE:LM
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Deputy Commissioner, Tax Exempt and Government Entities Division SE:T
Director, Communications and Liaison, Tax Exempt and Government Entities Division
SE:T:CL
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division
SE:S:CLD
Director, Examination, Small Business/Self-Employed Division SE:S:E
Director, Exempt Organizations, Tax Exempt and Government Entities Division SE:T:EO
Director, Field Specialists, Large and Mid-Size Business Division SE:LM:FS
Director, Communication and Liaison, Large and Mid-Size Business Division SE:LM:M:CL
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaisons:
 Commissioner, Large and Mid-Size Business Division SE:LM:CL
 Commissioner, Small Business/Self-Employed Division SE:COM
 Commissioner, Tax Exempt and Government Entities Division SE:T:CL
 Chief, Appeals AP:TP:SS



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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our current findings and prior recommendations have had on tax administration (these prior recommendations continue to provide benefits). These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlement – Potential; 264 taxpayers whose related case files did not contain adequate documentation to show that the taxpayers were advised of their rights when assessment statutes were extended (see page 5).

Methodology Used to Measure the Reported Benefit:

To determine the number of taxpayers for which documentation was not adequate to support that the taxpayers were advised of their rights, we electronically identified 8,987 tax returns from the universe of Business Master File and Individual Master File¹ tax returns (closed cases) for which the assessment statute was extended. The time periods were January 1 through June 30, 2008, for statutes extended on Individual Master File tax returns and January 1 through October 31, 2008, for Business Master File tax returns. We used a 95 percent confidence level, an 8 percent expected error rate, and a ± 5 percent precision to determine our sample size of 112 tax returns.

Because of the difficulty we encountered with obtaining the associated case files for some of these returns, we requested a total of 533 tax returns for 360 taxpayers for which the assessment statute was extended. This enabled us to get entire case files (more than one tax return if necessary) for each taxpayer. After screening through files for 300 taxpayers having 1 tax period with an extended statute, we met our sample size of 112 tax returns with complete case files that met our criteria. Some of the cases that we screened did not meet the criteria for a Consent to Extend the Time to Assess Tax (Form 872) and we needed to eliminate 126 tax returns.² The remaining tax returns and related files did not have complete documentation although they met our criteria.

¹ The Business Master File is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes. The Individual Master File is the IRS database that maintains transactions or records of individual tax accounts.

² No consent form is required for a return that has the statute date extended for procedural issues. Our criteria required a signed consent form to be a valid sample case.



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We reviewed the sample of 112 tax returns to determine if taxpayers were advised of their rights and identified 7 taxpayers (6 percent) for whom the required documentation was not found. This was the exception rate. However, since we had excluded 126 cases that were received but did not meet our criteria, we needed to account for those returns when projecting to the population. As a result, we added those back to the 112 to get to 238 cases. We then took the 7 exceptions and divided by 238 cases (2.94 percent) and used that percentage to project to the population. We then multiplied the 2.94 percent by the population to project the total number of taxpayers whose case files did not have sufficient documentation ($8,987 * 2.94 \text{ percent} = 264$ taxpayers). The range of lower and upper limits was then calculated using the actual error rate, the actual precision of 2 percent with a 95 percent confidence level.³

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 210 taxpayers whose related case files were not documented to show that the taxpayers’ representatives were given copies of the written communications advising taxpayers of their rights regarding assessment statute extensions (see page 7).

Methodology Used to Measure the Reported Benefit:

To determine the number of taxpayers for which documentation was not adequate to support that the taxpayers’ representatives were advised of the taxpayers’ rights, we used the same sample of 112 tax returns and identified 67 files that contained an authorization for a third party to represent the taxpayer before the IRS. In 7 (10.45 percent) of the 67 case files, there was no documentation that employees provided the representatives with a copy of the written communications provided to the taxpayers.

The data we received on the 8,987 population did not contain sufficient information to identify the number of cases that had representatives in the population. Therefore, we had to estimate the size of the population of taxpayers that had authorized third-party representatives. This was accomplished by dividing the number of tax returns in our sample with declarations of representation by the total tax returns screened for which the assessment statute was executed by consent ($67/300 = 22.33 \text{ percent}$) and then multiplying this percentage by the population to estimate the number of tax returns for which the assessment statute was executed by consent and had a declaration of representation ($8,987 * 22.33 \text{ percent} = 2,007$ tax returns). Using the estimated population, we projected the reported error rate ($2,007 \text{ tax returns} * 10.45 \text{ percent} = 210 [\pm 140]$ tax returns).⁴ The projection was calculated using valid statistical formulas to determine the variable range of total error returns.

³ This projection is an estimate of the number of exception cases in the population. We are 95 percent confident that the range is between 74 and 455 cases based on a 6 percent error rate and 2 percent precision.

⁴ Calculated as follows: $2,007 \text{ tax returns} * \pm 7 \text{ percent (actual precision)} = \pm 140$. The lower limit of the range is $210 - 140 = 70$ tax returns. The upper limit of the range is $210 + 140 = 350$ tax returns.



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Appendix V

Prior Audit Reports

The Treasury Inspector General for Tax Administration has previously performed nine mandatory audits in this subject area. These audits were:

Fiscal Year 2008 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2008-40-127, dated June 5, 2008).

Fiscal Year 2007 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2007-40-167, dated August 31, 2007).

Fiscal Year 2006 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2006-40-163, dated September 21, 2006).

Fiscal Year 2005 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2005-40-112, dated July 21, 2005).

Fiscal Year 2004 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2004-40-108, dated June 9, 2004).

Fiscal Year 2003 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2003-40-193, dated September 11, 2003).

Improved Documentation Is Needed to Ensure Taxpayers Are Informed of Their Rights When Requested to Extend the Assessment Statute (Reference Number 2002-40-175, dated September 24, 2002).

Most Taxpayers Are Advised of Their Rights Before Signing an Agreement to Extend the Assessment Statute of Limitations (Reference Number 2001-10-157, dated September 24, 2001).

Information Provided to Taxpayers When Requesting Extensions of the Assessment Statute of Limitations Can Be Improved (Reference Number 2000-10-142, dated September 29, 2000).



**Fiscal Year 2009 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute**

Appendix VI

Case Review Results by Division

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Compliance With Requirement to Notify Taxpayers of Their Rights	Division ¹				Totals
	Appeals	LMSB	SB/SE	TE/GE ²	
Number of Tax Return Files That Did Not Contain Adequate Documentation That Taxpayers Were Informed of Their Rights	3	1	3	0	7
Number of Tax Return Files Reviewed:	9	22	76	5	112

Compliance With Requirement to Notify Representatives of Taxpayer Rights	Division				Totals
	Appeals	LMSB	SB/SE	TE/GE	
Number of Tax Return Files That Did Not Contain Adequate Documentation That Taxpayer's Representatives Were Provided With Copies of the Notification of the Taxpayer's Rights	0	1	6	0	7
Number of Tax Return Files Reviewed:	8	13	43	3	67

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¹ No cases from the Wage and Investment Division occurred in our sample.

² Office of Appeals, Large and Mid-Size Business Division (LMSB), Small Business/Self-Employed Division (SB/SE), and Tax Exempt and Government Entities Division (TE/GE).