



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2009 STATUTORY AUDIT OF COMPLIANCE WITH NOTIFYING TAXPAYERS OF THEIR RIGHTS WHEN REQUESTED TO EXTEND THE ASSESSMENT STATUTE

Issued on August 3, 2009

Highlights

Highlights of Report Number: 2009-30-113 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement.

IMPACT ON TAXPAYERS

The Internal Revenue Service (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 its review, TIGTA believes 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.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required by law to annually determine whether the IRS complied with Internal Revenue Code Section 6501(c)(4)(B), which requires the IRS to notify taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extensions be limited to specific issues or a specific period of time.

WHAT TIGTA FOUND

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. The percentage of case files without required documentation decreased from Fiscal Year 2005 to Fiscal Year 2008, remaining the same in Fiscal Year 2009.

For Fiscal Year 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 all seven cases, the taxpayers' representatives signed Consent to Extend the Time to Assess Tax (Form 872) or Consent to Extend the Time to Assess Employment Taxes (Form SS-10), both of which contain a statement detailing the taxpayer's rights regarding extending the assessment statute of limitation. However, there was no evidence in the case files that the taxpayers themselves were advised of their rights.

In addition, our sample included 67 case files with authorizations for third-party representation. TIGTA found that 7 (10 percent) 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.

WHAT TIGTA RECOMMENDED

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

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2009reports/200930113fr.pdf>