Treasury Inspector General for Tax Administration
Office of Audit

OVERSIGHT OF NONBANK TRUSTEES HAS IMPROVED, BUT RESOURCES EXPENDED ON THE PROGRAM SHOULD BE REEVALUATED

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Highlights

Highlights of Report Number: 2012-10-055 to the Internal Revenue Service Acting Commissioner for the Tax Exempt and Government Entities Division.

IMPACT ON TAXPAYERS

A nonbank trustee is a financial entity that is not a bank or insurance company, but acts as the custodian for tax-exempt retirement and savings accounts. The Employee Plans function expanded its nonbank trustee program to ensure that nonbank trustees were meeting the requirements outlined in the tax regulations. However, with fewer than 100 nonbank trustees and the IRS's experience that most are complying with the regulations, TIGTA believes the IRS should reevaluate the level of coverage for this program and determine how it can best balance limited resources with other programs. If the Employee Plans function does not reevaluate its use of limited resources, it may not know whether it is using taxpayer funds in the most productive manner.

WHY TIGTA DID THE AUDIT

This audit was initiated based on a congressional inquiry and subsequent TIGTA investigation in the aftermath of the Bernard L. Madoff scandal and addresses the major management challenge of Tax Compliance Initiatives. The overall objective was to determine whether the IRS is ensuring nonbank trustees meet tax regulation requirements and whether there are any opportunities for cost savings within this program.

WHAT TIGTA FOUND

In the aftermath of the Madoff scandal, the Employee Plans function expanded its nonbank trustee program by strengthening processes for approving nonbank trustee applications and conducting investigations to ensure nonbank trustees meet applicable tax regulations. Most investigations determined that nonbank trustees either were in full compliance with tax regulations or had minor violations that were correctable.

While the actions taken by the Employee Plans function because of the Madoff scandal improved the IRS's oversight of nonbank trustees, TIGTA determined that nonbank trustee investigations focus on compliance with tax regulations and do not independently determine whether the securities exist. As a result, it is unlikely that nonbank trustee investigations would uncover a scheme, such as the one perpetrated by Madoff.

Because investigations have not uncovered widespread noncompliance and would not likely uncover a Madoff-like scheme, Employee Plans function management needs to evaluate how it can best balance limited resources between efforts to oversee nonbank trustees and examining retirement plans.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Employee Plans, reevaluate the balance of nonbank trustee program and regular examination program work, and ensure that the published list of nonbank trustees is accurate.

In their response to the report, the IRS agreed with the recommendations. The IRS plans to evaluate the number of nonbank trustee investigations to determine the proper balance between such investigations and regular retirement plan examinations. In addition, the IRS plans to continuously monitor the changes to the list of approved nonbank trustees throughout the year and annually publish an announcement that contains the current list of approved nonbank trustees.

READ THE FULL REPORT

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

http://www.treas.gov/tigta/auditreports/2012reports/201210055fr.pdf.