



Treasury Inspector General for Tax Administration Office of Audit

CONTROLS OVER OUTSIDE EMPLOYMENT ARE NOT SUFFICIENT TO PREVENT OR DETECT CONFLICTS OF INTEREST

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Highlights

Highlights of Report Number: 2014-10-073 to the Internal Revenue Service Human Capital Officer.

IMPACT ON TAXPAYERS

Generally, IRS employees are allowed to engage in outside employment or business activities after obtaining written approval. Effective controls over outside employment can reduce the risk of conflicts of interest that could result in decisions that are not in the best interest of American taxpayers.

WHY TIGTA DID THE AUDIT

The overall objective of this audit was to determine whether the IRS has controls in place to provide reasonable assurance that outside employment requests are documented and reviewed for conflicts with employees' official duties.

WHAT TIGTA FOUND

IRS records indicate that, in Calendar Year 2011, nearly 3,000 of the more than 6,000 active, full-time IRS employees who held jobs or participated in business activities outside the IRS did not obtain documented approval, as required by Department of the Treasury regulations and IRS policies. IRS Human Capital Office management was generally not aware of the number of employees with unapproved outside employment because responsibility has not been assigned for overseeing the overall outside employment process. In addition, the IRS stated that it does not have authorization to use taxpayer information (e.g., Form W-2, *Wage and Tax Statement*) to identify employees with unapproved outside income because Internal Revenue Code Section 6103 does not clearly provide that tax data can be used for this purpose.

It will be difficult for the IRS to monitor outside employment because 93 percent of the existing records in the database used to compile outside employment requests are out of date. Moreover, approval of outside employment requests is not always documented on the database or in Official Personnel Folders, in part because of confusing and incomplete guidance.

Improving controls will be important because TIGTA identified current and former IRS employees with both actual and potential conflicts of interest. One employee pled guilty to engaging in a criminal conflict of interest for accessing taxpayer information for the purpose of conducting a private tax and accounting business, 44 IRS employees prepared tax returns for compensation (a prohibited practice), and TIGTA's analysis identified 20 employees with a high risk of potential conflicts of interest who received outside income without documented approval. For example, four employees operated businesses with annual gross receipts ranging from more than \$500,000 to more than \$7 million, and six employees had wages of more than \$50,000 from outside of the IRS. Significant outside income could impact the employee's effectiveness on the job.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS Human Capital Officer update outside employment guidance, appoint management responsibility for overseeing the outside employment process, evaluate whether legislation would be needed to authorize the IRS to perform analyses of employee income information to identify employees with unapproved outside employment, and perform a one-time cleanup of the outside employment database.

In their response, IRS management agreed with three of our recommendations. However, they did not agree that income information should be used to detect IRS employees engaging in potential conflicts of interest. TIGTA continues to believe that the IRS should evaluate whether legislation would be needed to allow it to detect employees with outside employment.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2014reports/201410073fr.pdf>.