Treasury Inspector General for Tax Administration
Office of Audit

TRUST FUND RECOVERY PENALTY ACTIONS WERE NOT ALWAYS TIMELY OR ADEQUATE

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Highlights

Highlights of Report Number: 2014-30-034 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

Employers are required to withhold amounts from their employees' salaries to cover individual Federal income, Social Security, and Medicare taxes (trust fund taxes). When a business does not remit trust fund taxes withheld from its employees, the IRS can collect the unpaid taxes from the individuals responsible by assessing the Trust Fund Recovery Penalty (TFRP) when appropriate. Employees who have taxes withheld from their wages expect the funds to be properly remitted to the IRS. In addition, businesses that do not pay their taxes have an unfair advantage over businesses that do pay their taxes in full and on time.

WHY TIGTA DID THE AUDIT

As of June 30, 2012, employers owed the IRS approximately $14.1 billion in delinquent employment taxes. This audit was initiated to determine whether the Collection Field function is taking adequate and timely TFRP actions on trust fund cases.

WHAT TIGTA FOUND

TFRP actions were not always timely or adequate. Specifically, TIGTA found untimely TFRP actions, expired assessment statutes, unsupported collectibility determinations, and incomplete TFRP investigations associated with installment agreement and currently not collectible cases. TFRP actions were untimely and/or inadequate in 99 of the 265 cases reviewed in a statistically valid sample. For 59 of the 99 cases, the untimely actions averaged more than 500 days to review and process the TFRP assessment.

When TFRP assessments are not made timely, taxpayers' financial ability to pay can decline, thereby decreasing the IRS's chances to collect the trust fund taxes due. In addition, the Government's interest is not protected if potential TFRP assessments are overlooked or missed.

In recent years, the IRS has introduced new TFRP guidance to better control the TFRP process and has achieved some improvement in the average time it takes to complete investigations and assess the TFRP. However, significant untimeliness still exists.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS emphasize to group managers their responsibilities to monitor TFRP cases and ensure that revenue officers take timely TFRP actions; enhance TFRP communication and training; ensure completion and adequacy of scheduled system improvements and take appropriate actions to implement the changes; and revise TFRP guidance regarding the accuracy of the collectibility determination support and controlling the completion of TFRP investigations when installment agreements or currently not collectible closures are approved.

In their response to the report, IRS officials agreed with all of our recommendations and plan to take corrective actions.

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/201430034fr.pdf.