
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Office of Inspections and Evaluations



*Review of the Internal Revenue Service
Criminal Investigation Division's Non-Profit
Fraud Referral Process*

July 2, 2010

Reference Number: 2010-IE-R006

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:

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 2, 2010

MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION

FROM: R. David Holmgren *R. David Holmgren*
Deputy Inspector General for Inspections and Evaluations

SUBJECT: Final Evaluation Report – Review of the Internal Revenue Service
Criminal Investigation Division’s Nonprofit Fraud Referral Process
(IE-09-013)

This report presents the results of our review to document the Criminal Investigation Division’s (CI) efforts to investigate criminal fraud related to the tax-exempt organizations and assess the procedures used to conduct and manage such investigations.

The review was conducted after Senator Susan Collins and Representative Darrell Issa requested the Treasury Inspector General for Tax Administration (TIGTA) review CI’s enforcement efforts with respect to taxable nonprofit corporations engaging in political activities.¹ In response to that request, TIGTA initiated a review of the Internal Revenue Service’s (IRS’s) oversight of tax-exempt Section 501(c)(3) organizations and agreed to review internal IRS referral processes with regard to nonprofit fraud investigations.²

All the data that we reviewed to complete this evaluation was provided to us by CI and as such we were not able to independently confirm the information. Since CI categorized the investigations as grand jury cases, CI did not provide any information contained in the criminal investigation case files pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, which limits the disclosure of grand jury information. Throughout the review, CI and TIGTA staff cooperated to the fullest extent possible.

¹ Cosigned letter from Senator Susan Collins and Representative Darrell Issa dated September 18, 2009.

² TIGTA individual letters to Senator Collins and Representative Issa dated September 23, 2009.



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Synopsis

During the period Fiscal Years 2007 through 2009, CI had an inventory of 168 tax-exempt investigations. Twenty-seven percent of the referrals received by CI came from other IRS functions while about 20 percent came from the United States Attorney's Office. The third largest number came from other Federal agencies including the Federal Bureau of Investigation. In general, the percentage of investigations related to tax-exempt entities seems reasonable compared to the number of tax-exempt returns filed.

Approximately 72 percent of tax-exempt investigations (121 of 168) are subject criminal investigations, which are investigations related to a specific individual or entity alleged to be in violation of laws enforced by the IRS and having criminal prosecution potential. About one-third of the subject criminal investigations completed by CI resulted in a conviction.

We were unable to fully determine if fraud referrals were accepted or declined within 30 calendar days as stipulated in CI procedures. The TIGTA Office of Audit reported in March 2005³ at that time CI took an average of 93 calendar days to decide to accept or decline fraud referrals during Fiscal Year 2003. In response to that report, Chief, CI, replied that several actions to address that finding were to be implemented by September 2004. The actions included implementing a fraud referral tracking system and re-emphasizing established operating procedures. Included was a requirement to better track referrals and to evaluate referrals within 30 workdays of receipt.

We attempted to determine if CI timely evaluated the referrals included in our review. CI staff was able to provide information on only 14 cases, and only six of the 14 were evaluated timely.

Recommendation

We recommend the Chief, CI should modify the Criminal Investigation Management Information System (CIMIS)⁴ to capture data required to readily assess the timeliness of fraud referral evaluations.

Response

The Chief, CI, did not agree with our recommendation to modify the CIMIS to capture data required to readily assess the timeliness of fraud referral evaluations. CI management believes

³ *The Criminal Investigation Function Has Made Progress in Investigating Criminal Tax Cases; However, Challenges Remain* (Reference Number 2005-10-054, dated March 2005).

⁴ CIMIS is a management and information system for tracking the status and progress of CI investigations, time expended by CI employees, employee information, and IRS CI investigative equipment.



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the CIMIS currently has the ability to capture data required to assess the timeliness of fraud referral evaluations. However, CI plans to issue additional guidance to ensure special agents timely record specific information related to fraud referral evaluations, which should enhance CI's ability to monitor the timeliness of fraud referral evaluations. Additionally, the Chief, CI also highlighted significant difference between the conviction rate for subject criminal investigations computed by TIGTA and that computed by CI. Management's complete response to the draft report is included in Appendix V.

Office of Inspections and Evaluations Comment

We agree that CI might use existing CIMIS data to measure the timeliness of fraud referral evaluations, and issuing additional guidance to ensure special agents timely record specific information related to fraud referral evaluations should improve this process. However, these measures will only provide a general indication of whether evaluations are being processed timely. In cases where the evaluation period exceeds established guidelines, additional research will be required to determine whether there were delays in posting information to CIMIS or actual delays in the evaluation process.

We added additional information to this report to explain the differences in the methods TIGTA and CI use to compute conviction rates cited in this report.

Copies of this report are also being sent to IRS managers affected by the report recommendation. Please contact me at (202) 927-7048 if you have questions about the material in the report or Kevin Riley, Director, Inspections and Evaluations at (972) 249-8355.



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Abbreviations

CI	Criminal Investigation Division
CIMIS	Criminal Investigation Management Information System
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed Division
TE/GE	Tax Exempt and Government Entities Division
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Internal Revenue Service (IRS) estimates there are approximately 1.8 million tax-exempt organizations in the United States that control more than \$3.4 trillion in assets. Tax-exempt organizations include religious, charitable and social welfare organizations; labor and agriculture organizations; business leagues; and social and recreational clubs. IRS management has been aware of potential fraud¹ in the tax-exempt sector for several years and has increased their enforcement efforts. Primarily three IRS divisions, Tax Exempt and Government Entities (TE/GE), Small Business/Self-Employed (SB/SE), and Criminal Investigation (CI), work together to detect and deter fraudulent activities in the tax-exempt sector.

TE/GE is responsible for ensuring organizations exempt from Federal income tax comply with the Internal Revenue Code and related regulations. SB/SE has overall responsibility for the IRS National Fraud Program and coordinating the IRS-wide fraud strategies, policies, and procedures to enhance enforcement of the tax law. CI investigates potential criminal violations related to tax administration and related financial crimes, including violations of the Bank Secrecy Act,² and the Money Laundering Control Act.³

TE/GE and SB/SE are the primary source of tax-exempt investigations. Approximately 36 percent of tax-exempt investigations conducted during Fiscal Years 2007 through 2009 resulted from criminal fraud referrals from TE/GE and SB/SE. CI initiated the remaining tax-exempt investigations based on information received from external sources, such as the Federal Bureau of Investigation, the United States Attorney's Office, State and local agencies, the media, and informants.

The TIGTA Office of Audit recently completed reviews⁴ designed to assess the effectiveness of TE/GE and SB/SE fraud programs. Our review was performed to document CI's efforts to investigate criminal fraud related to the tax-exempt organizations and assess the procedures used by CI to conduct and manage such investigations. CI is comprised of approximately 4,100 employees, of whom about 2,600 are special agents trained and authorized to conduct investigations of potential criminal violations.

¹ Tax fraud is a deliberate, willful violation of Internal Revenue laws and involves obtaining something of value through deceit.

² Pub. L. No. 91-508, 84 Stat. 1114 (1970) (codified as amended in scattered sections of 12 U.S.C., 18 U.S.C., and 31 U.S.C.) Regulations for the Bank Secrecy Act, and other related statutes, are 31 C.F.R. §§ 103.11-103.77 (2009).

³ Pub. L. No. 99-570, 100 Stat. 3207 (codified as amended in scattered sections of 12 U.S.C., 18 U.S.C., and 31 U.S.C.)

⁴ *A Corporate Approach Is Needed to Provide for a More Effective Tax-Exempt Fraud Program* (Reference Number 2009-10-096, dated July 2009), and *Management Has Emphasized the Fraud Program, but Opportunities Exist to Further Improve It* (Reference Number 2007-30-179, dated September 2007).



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The results of our review are primarily based on analyses of data obtained from the Criminal Investigation Management Information System⁵ (CIMIS) and interviews with CI management and special agents. We did not review documentation contained in criminal investigation case files. Since CI categorized the investigations as grand jury cases, CI did not provide any information contained in the criminal investigation case files pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, which limits the disclosure of grand jury information. As a result, all the data that we reviewed was provided to us by CI and as such we were not able to independently confirm the information. Throughout the review, CI and TIGTA staff cooperated to the fullest extent possible.

This review was performed at CI National Headquarters in Washington, D.C., and the Atlanta, Georgia field office during the period October 2009 through March 2010. With the exception of the scope limitations described in the prior paragraph, we conducted this review in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspections. Detailed information on our evaluation objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁵ CIMIS is a management and information system for tracking the status and progress of CI investigations, time expended by CI employees, employee information, and IRS CI investigative equipment.



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Results of Review

Investigations Related to Tax-Exempt Organizations are Relatively Few But Are Successfully Prosecuted

Overall, CI conducts a relatively small number of investigations related to tax-exempt organizations. However, investigations of these cases have resulted in a conviction rate of about 35 percent and several of those convicted have received prison sentences and been ordered to pay additional tax assessments, fines and restitution or some combination thereof.

The referral process

Each office within TE/GE conducts enforcement efforts designed to identify potential fraud. If an examiner identifies a specific case with indications of fraud and the potential tax loss equals or exceeds the threshold to warrant prosecution and incarceration, the examiner should document the results in a Referral Report of Potential Fraud Case and refer the case to his or her manager. If the manager agrees with the examiner's conclusions and approves the case, the case should be referred to a Fraud Technical Advisor in the IRS National Fraud Program.

The Fraud Technical Advisor should work with the examiner from TE/GE to determine whether additional documentation should be gathered to support the case or whether the case is ready to be referred to CI for investigation. Upon receipt of the criminal fraud referral from the National Fraud Program Office, the Special Agent in Charge receiving the referral should review the case and assign it to a special agent.

CI considers all investigations related to tax-exempt organizations sensitive; therefore, such investigations should receive a higher level of scrutiny and management oversight. Specifically, Directors of Field Operations⁶ must approve certain processes that are normally approved by the Special Agent in Charge of the field office. For example, the Directors of Field Operations should approve the decision to accept a fraud referral, which converts the related primary investigation to a subject criminal investigation. Additionally, the Directors of Field Operations should approve the decision to initiate a grand jury investigation.

The evaluation period for criminal fraud referrals related to tax-exempt organizations exceeded established goals

Generally, the special agent assigned to a fraud referral should determine whether the fraud referral should be accepted or declined within 30 business days of receiving the referral in the CI

⁶ A Director of Field Operations is assigned to each of CI's four geographic locations. Each Director is responsible for functional coordination and oversight of the assigned area.



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field office. If additional time is required to evaluate the referral, the special agent can request an extension to the evaluation time period. In a prior report,⁷ TIGTA, Office of Audit reported CI took an average of 93 calendar days to accept or decline 521 referrals during Fiscal Year 2003. In response to recommendations made by TIGTA, the Chief, CI advised that a detailed policy memorandum had been issued that reemphasized established operating procedures, and implemented a fraud referral tracking system. The fraud referral tracking system included assigning a fraud referral coordinator to each CI field office. The duties of the fraud referral coordinator include:

- Maintaining a record of fraud referrals received by the Field Office, including current status; and,
- Assisting the Special Agent in Charge in tracking due dates and extensions.

Based on information provided by CI, 45 tax-exempt investigations conducted during Fiscal Years 2007 through 2009 resulted from criminal fraud referrals from TE/GE and SB/SE. We attempted to determine whether CI timely accepted or declined these fraud referrals; however, the information required for our analysis (the date CI received the referral and the date a decision was made to accept or decline) was not recorded in the CIMIS. Therefore, officials from CI National Headquarters had to gather the information from each field office that evaluated the fraud referrals, which was time consuming and labor intensive.

Because of miscommunications between officials in CI National Headquarters and the field offices, the information submitted for our analysis was incomplete and contained several errors. Specifically, officials in the field offices only provided the data required for 14 of 45 fraud referrals. Officials in CI National Headquarters office later corrected the errors, explained the reasons that incomplete information was provided, and volunteered to submit another request for the information. Because of time constraints, we could not extend our review for another data request. Therefore, we based our analysis on information provided for 14 of 45 fraud referrals.

We found CI took an average of 40 business days to decide whether to accept or decline the referrals, which is 25 percent higher than the 30 business day standard. Specifically, CI made a decision to accept or decline the fraud referral within 30 business days for only six of 14 fraud referrals. CI requested an extension to the evaluation period for the eight fraud referrals that took longer than 30 workdays to evaluate.

CI relies on fraud referral coordinators in each field office to monitor the status of fraud referrals. However, CI does not centrally store the information required to determine whether fraud referrals are routinely evaluated in a timely manner. Because the information is not stored in a central location, CI cannot readily assess the timeliness of fraud referral evaluations.

⁷ *The Criminal Investigation Function Has Made Progress in Investigating Criminal Tax Cases; However, Challenges Remain* (Reference Number 2005-10-054, dated March 2005).



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Recommendation

Recommendation 1: The Chief, CI, should modify the CIMIS to capture data required to readily assess the timeliness of fraud referral evaluations.

Management's Response: The Chief, CI, did not agree with our recommendation to modify the CIMIS to capture data required to readily assess the timeliness of fraud referral evaluations. IRS management believes the CIMIS currently has the ability to capture data required to assess the timeliness of fraud referral evaluations. However, CI plans to issue additional guidance to ensure special agents timely record specific information related to fraud referral evaluations, which should enhance CI's ability to monitor the timeliness of fraud referral evaluations.

Office of Inspections and Evaluations Comment: CI will attempt to assess how timely referrals are processed using the date the special agent opened a case to evaluate the referral (primary investigation start date) and the date the case was either returned to the business unit it came from (primary investigation close date) or the date the investigation was upgraded to a subject criminal investigation (subject criminal investigation start date).

We accept that CI might use the dates listed above to measure the timeliness of fraud referral evaluations instead of modifying CIMIS to accept the actual referral received and closed dates. However, delays in posting specific information to CIMIS can significantly distort the evaluation period. For the 14 fraud referrals for which CI provided data to determine the evaluation period, we determined delays in posting information to CIMIS extended the evaluation period by an average of 25 calendar days. Issuing additional guidance to ensure special agents timely record specific information related to fraud referral evaluations should improve CI's capability to measure timeliness. However, these measures will only provide a general indication of whether evaluations are being processed timely. In cases where the evaluation period exceeds established guidelines, additional research will be required to determine whether there were delays in posting information to CIMIS or actual delays in the evaluation process.

Types of tax-exempt investigations

CI had an inventory of 168 tax-exempt investigations during the period Fiscal Years 2007 through 2009. The investigations related to tax-exempt organizations consisted of general investigations, primary investigations, and subject criminal investigations. A general investigation is a review of a group, activity or program designed to identify possible violations of laws enforced by the IRS. The purpose of a general investigation is to identify and develop sources for primary investigations. If the results of a general investigation indicate an individual or entity may be involved in criminal activity, CI should initiate a primary investigation.



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The objective of a primary investigation is to evaluate an allegation that an individual or entity is in noncompliance with laws enforced by the IRS. A primary investigation may also relate to a group of individuals involved in a coordinated scheme. As stated above, a primary investigation can result from a general investigation; however, CI initiates most primary investigations from information obtained from other sources. As additional information is developed that indicates prosecution potential exists, the primary investigation should be elevated to a subject criminal investigation.

CI should conduct a subject criminal investigation to investigate a specific individual or entity alleged to be in violation of laws enforced by the IRS and having criminal prosecution potential. The objective of a subject criminal investigation is to gather pertinent evidence to prove or disprove the existence of a violation of the laws enforced by the IRS.

The distribution of tax-exempt investigations conducted during Fiscal Years 2007 through 2009 includes the following:

- *****1*****
- Forty-five primary investigations; and,
- One hundred and twenty-one subject criminal investigations.

Sources of tax-exempt investigations

For Fiscal Years 2007 through 2009, TE/GE and SB/SE were the leading source of tax-exempt investigations. These two divisions accounted for 27 percent of tax-exempt investigations. The United States Attorney's Office accounted for 20 percent of tax-exempt investigations, while other Federal agencies, such as the Federal Bureau of Investigation, provided 24 percent of the referrals for tax-exempt investigations. Figure 1 documents the sources of all tax-exempt investigations conducted during Fiscal Years 2007 through 2009.



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Figure 1: Source of Tax-Exempt Investigations

Source	Count	Percentage
TE/GE and SB/SE (Fraud Referrals)	45	27%
Other Federal Agencies	40	24%
United States Attorney's Office	34	20%
State/Local	15	9%
General Public/Media	14	8%
Other IRS	8	5%
Suspicious Activity Report ¹	7	4%
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1**
Total	168	100%

¹ A report filed by specific types of financial institutions to report potential or actual illegal activity.

*****1*****
*****1*****

Source: Summary of information obtained from CIMIS.

We found that CI initiated about 48 percent of these investigations (81 of 168) before Fiscal Year 2007, and applied over 180,000 direct hours to these investigations. Special agents spent an average of 2,226 hours investigating these files.

Approximately 79 percent of the tax-exempt investigations initiated before Fiscal Year 2007 were grand jury investigations,⁸ which require substantially more time to investigate than non-grand jury investigations. Special agents spent an average of 1,877 hours investigating grand jury cases, whereas on non-grand jury cases they only spent an average of 332 hours (about 82 percent less time.)

The number of new tax-exempt investigations has declined but is consistent with the percentage of returns filed by tax-exempt entities

During Fiscal Years 2007 through 2009, CI initiated a total of 27,546 investigations of which 87 were tax-exempt investigations. The tax-exempt investigations represent less than one-half percent of all new investigations during that period. Figure 2 compares the number of tax-exempt investigations initiated to total investigations initiated during the three-year period.

⁸ Federal grand juries investigate possible criminal violations of the Federal laws and return indictments against culpable corporations and individuals where there is probable cause to believe that a violation has occurred.



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**Figure 2: Tax-Exempt Investigations as a Percentage
of Total Investigations**

Fiscal Year	Tax-exempt Investigations Initiated	Total Investigations Initiated	Percentage Investigations Related to Tax-exempt Organizations
2007	42	9,363	0.45%
2008	27	8,425	0.30%
2009	18	9,758	0.23%
Total	87	27,546	0.32%

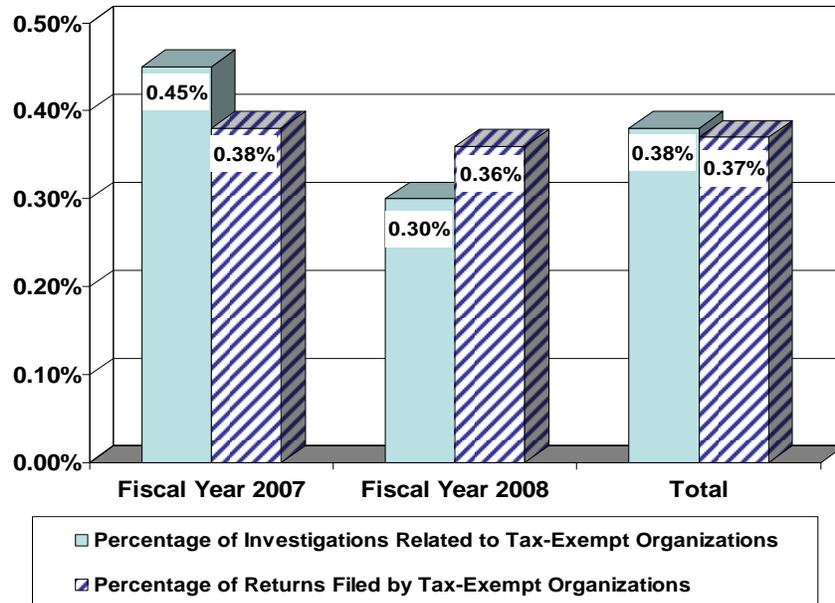
Source: Summary of data obtained from the CIMIS.

While the number of cases and the percentage to the total of all investigations has declined, the percentage is consistent with the percentage of tax returns filed by tax-exempt organizations. Specifically, tax returns filed by tax-exempt organizations for Fiscal Years 2007 and 2008 were also less than one-half percent of total returns filed. Figure 3 compares the percentage of investigations related to tax-exempt organizations to the percentage of tax returns filed by tax-exempt organizations.



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Figure 3: Percentages for New Tax-Exempt Investigations and Returns Filed by Tax-Exempt Organizations are Relatively Consistent



Source: Summary of information obtained from the CIMIS and the IRS Data Book, 2009.

Tax-exempt investigations are not as successful as other types of investigations

When CI completes a subject criminal investigation, the case is either discontinued⁹ or the case is provided to the Department of Justice Tax Division or a United States Attorney Office for consideration of criminal prosecution. During Fiscal Years 2007 through 2009, CI completed 103 subject criminal investigations related to tax-exempt organizations. The results of the 103 completed investigations were as follows:

- Thirty-six were successfully prosecuted or the defendant plead guilty;
- Twenty-two were in the process of being prosecuted;
- Eight were dismissed or the defendant was acquitted;

⁹ A discontinued investigation is a subject criminal investigation that resulted in a determination that there was no prosecution potential.



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- Thirteen were not accepted for prosecution; and,
- Twenty-four were discontinued.

In 36 of the 103 completed investigations, the defendants were convicted or plead guilty, resulting in a conviction rate of approximately 35 percent.¹⁰ In order to provide some perspective to the conviction rate for tax-exempt investigations, we compared it to the conviction rate for all completed legal source investigations completed during the same period, because investigations related to tax-exempt organizations generally relate to legal source investigations.¹¹ The conviction rate for all legal source investigations during Fiscal Years 2007 through 2009 was approximately 42 percent, about 17 percent higher than the conviction rate for tax-exempt investigations.

We also compared the conviction rate for completed tax-exempt investigations during this three-year period to the conviction rate for all completed investigations. The conviction rate for all completed investigations was approximately 53 percent, 33 percent higher than the conviction rate for tax-exempt investigations. However, about 60 percent of all completed investigations relate to illegal source financial crimes and narcotics-related financial crimes, which have significantly higher conviction rates of 57 and 66 percent respectively. Figure 4 illustrates our comparison of the conviction rates.

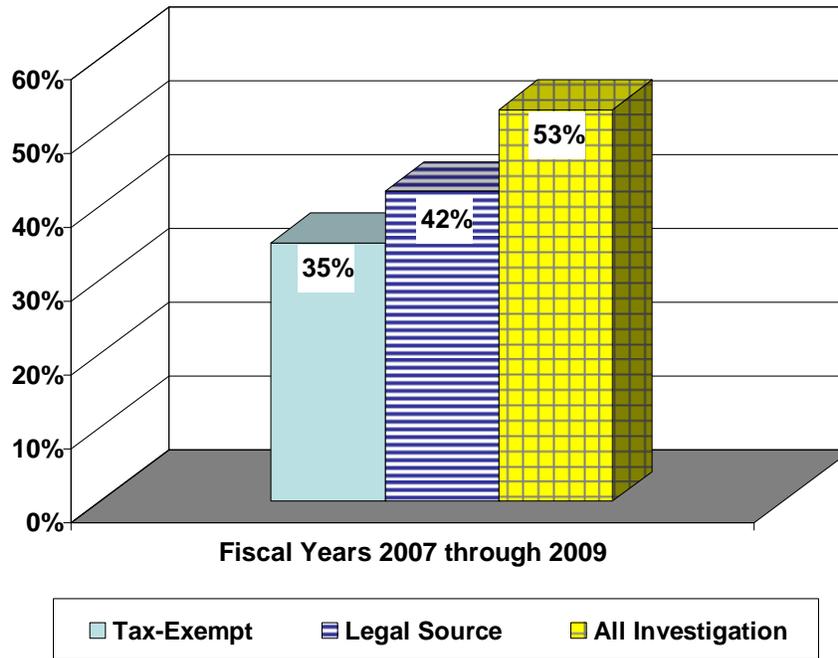
¹⁰ TIGTA computed the conviction rate by dividing the total number of convictions by the total number of completed subject criminal investigations. TIGTA's conviction rate differs significantly from that computed by CI. CI's rate does not include discontinued investigations, referrals for prosecution that are not accepted for prosecution, or cases in the process of being prosecuted in the total number of completed subject criminal investigations.

¹¹ Legal source financial crimes involve legal industries and occupations, and legally earned income associated with the violation of Title 26 (tax violations) and Title 18 (tax-related violations) of the United States Code.



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Figure 4: Comparison of Conviction Rates for Fiscal Years 2007 through 2009



Source: Summary of information obtained from the CIMIS.

The defendants in the successfully prosecuted tax-exempt cases were sentenced to an average of four years and three months in prison, and in total were ordered to pay nearly \$41.2 million in tax assessments, fines, restitution, court costs and forfeited property.¹² CI has classified 23 of the 36 investigations as closed because the cases have been fully adjudicated in that all appeals have been filed and resolved, or the period to file them has expired. The remaining 13 investigations are not classified as closed because the convictions, prison sentences and ordered payments could be changed.

Our analysis revealed that approximately 92 percent of successful prosecutions (33 of 36) involved the use of a grand jury and as previously stated required an average of 1,877 staff hours to complete.

CI completed 22 investigations that have been recommended and accepted for prosecution and are awaiting final actions such as, a convictions, acquittal or dismissal.

***** | *****



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A total of 45 investigations did not result in a successful prosecution, because the Department of Justice did not accept CI's referral for prosecution, the case was dismissed or the defendant was acquitted, or CI discontinued the subject criminal investigations. Figure 5 shows the reasons why the cases were not successfully prosecuted.

Figure 5: Reasons that Subject Criminal Investigations Related to Tax-Exempt Organizations were not Successfully Prosecuted

Reason Closed	Count	Percentage
Department of Justice/United States Attorney's Office Declined Prosecution	13	29%
Acquittal/Dismissed	8	18%
Insufficient Evidence	9	20%
Action in a Related Investigation	4	9%
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1***
*****1*****	***1***	***1***
Total	45	100

Source: Summary of information obtained from the CIMIS.

Conclusion

While the number of investigations of tax-exempt entities has declined in the three-year period we reviewed, the relative percentage of investigations to the total number of tax-exempt returns filed appears to be appropriate. Additionally, even though the percentage of tax-exempt subject investigations that result in a conviction is lower than the percentage of legal source cases that result in a conviction, a third of the tax-exempt cases (the majority of which employed the grand jury process) have been successfully prosecuted.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective was to document CI's efforts to investigate criminal fraud related to the tax-exempt organizations and assess the procedures used to conduct and manage such investigations. To achieve this objective we completed the following steps:

- I. Documented and assessed CI's procedures used to evaluate, process, and manage fraud referrals from receipt to final resolution.
 - A. Reviewed relevant sections of the Internal Revenue Manual, standard operating procedures, and other guidance to document the transaction flow and processing time of fraud referrals from the time CI receives the referral through final resolution.
 - B. Documented the other sources of investigations related to tax-exempt entities and identified how the transaction flow and processing time differ from those related to fraud referrals.
- II. Analyzed data maintained by CI regarding the number of referrals related to tax-exempt entities.
 - A. Documented the number of investigations related to tax-exempt entities for Fiscal Years 2007, 2008, and 2009, and documented the results of those investigations.
 - B. Documented the number of fraud referrals from other sources and compared those referrals to those received for tax-exempt entities.



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Appendix II

Major Contributors to This Report

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Frederick J. Ephraim, Management Analyst



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
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Appendix V

Management's Response to the Draft Report

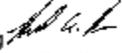


DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 19, 2010

MEMORANDUM FOR R. DAVID HOLMGREN
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND
EVALUATIONS

FROM:

Victor S. O. Song  
Chief, Criminal Investigation (SE:CI)

SUBJECT:

About One-Third of the Subject Criminal Investigations Related
to Tax-Exempt Organizations Resulted in a Successful
Prosecution (IE-09-013)

The following is Criminal Investigation's (CI) response to the above named report. Please incorporate this memorandum into your response to Treasury Inspector General for Tax Administration (TIGTA).

While the number of CI's investigations of tax-exempt entities has declined during the three year period reviewed, we appreciate TIGTA's recognition of our need to balance our program and that the relative percentage of tax-exempt investigations is appropriate for the percentage of tax-exempt returns filed. We wish to highlight differences in methodology used for computing CI's Conviction Rate of investigations concerning tax-exempt entities. Under Results of Review, TIGTA concludes that CI's investigations of tax-exempt organizations resulted in a 35 percent conviction rate during the three years reviewed. Their computation includes initiated investigations that resulted in convictions as well as investigations that are currently in progress or were discontinued. This is in sharp contrast to CI's computed conviction rate of 81.8 percent for tax-exempt organizations as defined by the published IRS Performance Measures Data Dictionary as explained below.

CI's conviction rate is defined as the percent of adjudicated criminal cases that result in convictions. The methodology for the computation is to divide the total criminal convictions (cases with status of guilty plea, nolo contendere, judge guilty, or jury guilty) by the number of cases as described above plus the number of cases with status of nolle prosequi, judge dismissed, jury acquitted, and/or judge acquitted. For the three years reviewed, there were 36 cases with status of guilty plea, nolo contendere, judge guilty, or jury guilty, and 8 cases with status of nolle prosequi, judge dismissed, jury acquitted, and/or judge acquitted, for a total of 44 cases. Thus CI's conviction rate for tax-exempt organizations is 81.8 percent.



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Our comments for the specific recommendation in this report are as follows:

Recommendation:

We recommend the Chief, CI should modify the Criminal Investigation Management Information System to capture data required to readily assess the timeliness of fraud referral evaluations.

Corrective Action:

We disagree with TIGTA's recommendation that CI needs to modify the Criminal Investigation Management Information System (CIMIS) but acknowledge that CI needs to improve its current tracking of the timeliness of fraud referral evaluations by ensuring that the appropriate information is being timely recorded in the system.

Currently, CIMIS has the capability to capture the timeliness of fraud referral evaluations using the existing Status Date field that is populated when a Criminal Fraud Referral is received by CI and the required Primary Investigation (PI) is initiated. This Status Date field is once again populated when a determination of acceptance or denial is made. In the case of an acceptance, the Status Date reflects the date the Primary Investigation is elevated to a Subject Criminal Investigation (SCI), and the Fraud Referral form 2797 is approved as accepted. In the case of a denial, the Status Date reflects the date the Primary Investigation is discontinued, and the Fraud Referral form 2797 is approved as denied. The timeliness of the evaluation is readily assessable through the existing CIMIS report INV005, Fraud Referral Timeliness Report. This report provides counts and percentages related to fraud referral timeliness, including identifying the percentage of inventory Open 45¹ days or less, as well as the percentage of accepted and rejected fraud referrals that fell within 45 days.

At this time, there is no specific date field available in CIMIS to record extension dates for referrals when an extension of evaluation time is agreed upon between CI and the referring entity. Results from negotiations for extension of time are currently noted in the individual Primary Investigation (PI) Action Field Comments section. These comments are then individually accessible by CI management.

To ensure the Status Date field is timely updated, a policy memorandum providing specific direction on capturing the fraud referral evaluation dates will be issued, including detailed guidance on using the CIMIS Status Date field and the Significant Action Field comments section to capture fraud referral data. This will be completed by the Director, Operations Policy and Support by November 15, 2010.

In addition to the above, in April, 2010, CI in partnership with the Fraud Technical Advisor Program Manager, began elevating the existence of specific overage Criminal Fraud Referrals to respective area Directors of Field Operations (DFO) for additional emphasis and to further direct focus on timely resolution.

¹ 45 days accounts for the 30 workdays plus weekends.



*Review of the Internal Revenue Service Criminal Investigation
Division's Nonprofit Fraud Referral Process*

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Implementation Date: N/A

Completed: _____ Proposed:

Responsible Official: N/A

Corrective Actions Monitoring Plan: N/A

If you have any questions, please contact Andrew Feldman, Director, Planning and Strategy (SE:CI:S:PS), at (202) 622-3675 or Kay Jernigan, Acting Assistant Director, Planning and Strategy (SE:CI:S:PS) at (202) 927-0120.

Attachments: Draft TIGTA Report