



## Treasury Inspector General for Tax Administration Office of Audit

### IMPROVEMENTS ARE NEEDED IN THE VOLUNTARY CLOSING AGREEMENT PROCESS FOR PUBLIC EMPLOYERS

Issued on May 27, 2011

## Highlights

Highlights of Reference Number: 2011-10-042 to the Internal Revenue Service Acting Commissioner for the Tax Exempt and Government Entities Division.

### IMPACT ON TAXPAYERS

The Federal, State, and Local Governments (FSLG) office enters into Voluntary Closing Agreements (Agreements) to resolve tax issues with government entities that voluntarily come forward and report noncompliance. TIGTA's review of the limited number of FSLG office Agreements signed to date revealed inconsistencies in controlling, processing, and monitoring Agreements, as well as in the terms and conditions of the Agreements. As a result, refunds were issued to public employers that were not due refunds, and taxpayer rights were potentially violated by inaccurately assessing interest.

### WHY TIGTA DID THE AUDIT

This review was requested by the Internal Revenue Service (IRS) and addresses the major management challenge of Tax Compliance. The overall objective of this review was to assess the FSLG office's efforts to oversee and promote public employers' requests for Agreements related to self-identified filing and payment errors.

### WHAT TIGTA FOUND

The FSLG office's Agreement process allows public employers that determine they are not in compliance with various employment and income tax laws to step forward and be accountable by entering into an agreement with the IRS to become compliant. While this assists the IRS in improving compliance in the government sector without using scarce resources to uncover noncompliance, the FSLG office has generally not promoted or completely implemented adequate internal controls for its Agreement process. As a result, TIGTA found inconsistencies, inaccuracies, potential taxpayer rights violations, and weak internal controls that increase the risk of error, fraud, or abuse. For example, TIGTA identified

approximately \$371,000 that was refunded to public employers that were not due refunds. In addition, approximately \$1,800 in interest was assessed against public entities when interest should not have been assessed. The IRS later abated \$116 of the interest originally assessed.

TIGTA also determined that Agreement terms and conditions differed in cases with similar fact patterns. For example, some public employers were required to file corrected information returns, while others were not required to file the corrected returns. In addition, TIGTA identified changes that may lead to an increase in the number of Agreements being requested. As a result of these changes, the FSLG office needs to begin building a more defined Agreement program.

### WHAT TIGTA RECOMMENDED

To build a strong foundation for working Agreement requests, the Acting Commissioner, Tax Exempt and Government Entities Division, should develop guidance on how to process, review, and monitor Agreements; follow up on taxpayers whose rights were potentially violated; research claims and take action to ensure future claims are worked properly; improve inventory and case management controls; and develop guidance on how to negotiate the terms and conditions of Agreements.

IRS officials agreed with our recommendations and concurred with the estimate of the measurable benefits on tax administration. The FSLG office issued guidance and implemented procedural changes on processing, reviewing, monitoring, and negotiating the terms and conditions of Agreements. It also corrected the accounts of taxpayers assessed interest inappropriately. In addition, the FSLG office has researched and taken necessary corrective actions on claims filed by public employers with Agreements to ensure abatements of tax and/or interest were appropriate and plans to conduct a 24-month test to evaluate a way to monitor accounts of taxpayers who enter into Agreements in the future.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2011reports/201110042fr.pdf>.

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