



## Treasury Inspector General for Tax Administration Office of Audit

### FISCAL YEAR 2011 STATUTORY AUDIT OF COMPLIANCE WITH NOTIFYING TAXPAYERS OF THEIR RIGHTS WHEN REQUESTED TO EXTEND THE ASSESSMENT STATUTE

## Highlights

Issued on June 6, 2011

Highlights of Report Number: 2011-30-055 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement.

### IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Based on the results of our review, TIGTA believes the IRS is complying with the intent of the statute; however, there were some instances in which IRS employees did not document whether taxpayers or their representatives were advised of these rights. Taxpayers might be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to statute extensions.

### WHY TIGTA DID THE AUDIT

TIGTA is required by law to annually determine whether the IRS complied with Internal Revenue Code Section 6501(c)(4)(B). This requires the IRS to notify taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to specific issues or a specific period of time.

### WHAT TIGTA FOUND

Our case review of 72 taxpayers with statute extensions showed that the IRS is compliant with Internal Revenue Code Section 6501(c)(4)(B). However, case files for four (5.6 percent) of the 72 taxpayers in our statistical sample did not contain documentation to indicate whether taxpayers were directly advised of their rights before consenting to extend the time to assess tax, but the taxpayers' representative signed the Consent to Extend the Time to Assess Tax (Form 872) and was notified of taxpayer rights regarding extending the assessment statute of limitations. Although notification to the taxpayers' representatives appears to meet the intent of the law, the IRS's internal procedures require notification to be provided to both the taxpayer and the representative. TIGTA estimated that 136 taxpayers'

files did not contain documentation to show the taxpayers were directly advised of their rights when assessment statutes were extended. TIGTA is 95 percent confident that the range of taxpayers' files without this documentation is between six and 265.

TIGTA also identified cases in which IRS employees improperly used an outdated version of the Form 872, which does not contain a statement detailing the taxpayers' rights. When TIGTA brought this issue to management's attention, management took immediate action to correct the problem.

In addition, our statistical sample of 72 taxpayers included 42 taxpayers' files containing authorizations for third-party representation. Our review found that four (9.5 percent) of the 42 taxpayers' files did not contain documentation that the taxpayers' representatives were provided with the required notifications. TIGTA estimated that 136 taxpayers' files were not documented to show that taxpayers' representatives were given copies of the written communications. TIGTA is 95 percent confident that the range of taxpayers' files without this documentation is between six and 265.

### WHAT TIGTA RECOMMENDED

TIGTA did not make any recommendations in this report because the number of errors was relatively small and IRS management took corrective action to prevent the use of outdated Forms 872. However, a draft of the report was provided to the IRS for review and comment. The IRS did not have any written comments in response to the report.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2011reports/201130055fr.pdf>

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