



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2012 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS

Issued on September 4, 2012

Highlights

Highlights of Report Number: 2012-30-089 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

IRS employees are required to stop an interview if the taxpayer requests to consult with a representative and may not bypass a representative without supervisory approval. Between October 2010 and September 2011, TIGTA's Office of Investigations closed 19 direct contact complaints involving IRS employees, of which eight were disciplined or counseled for their actions by IRS management officials.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually report on the IRS's compliance with Internal Revenue Code Sections 7521(b)(2) and (c). The overall objective of this audit was to determine whether the IRS complied with the legal guidelines addressing the direct contact of taxpayers and their representatives.

WHAT TIGTA FOUND

The IRS has a number of policies and procedures in place to help ensure taxpayers are afforded the right to designate a qualified representative to act on their behalf in dealing with IRS personnel in a variety of tax matters. However, TIGTA reviewed a statistical sample of 73 of 25,264 Small Business/Self-Employed Division closed field collection investigations and found that revenue officers were not always involving representatives appropriately in some key actions.

In the sample of 73 cases, TIGTA found that 14 revenue officers deviated from procedures by: 1) contacting the taxpayer directly, instead of the authorized representative, on the initial or subsequent contact in the collection investigation, 2) not sending copies of taxpayer correspondence to the authorized representative, or 3) not allowing enough time for the taxpayer to obtain a representative. In addition, little documentation was found in managerial reviews indicating that managers checked to ensure revenue

officers were: 1) involving representatives in all case actions, 2) providing representatives a copy of all original correspondence sent to taxpayers, and 3) allowing taxpayers sufficient time to obtain representation.

Although none of the taxpayers in the 14 cases formally complained to the IRS or to TIGTA, the deviations can negatively affect the ability of taxpayers to obtain appropriate and effective representation during collection investigations. Moreover, the deviations can increase the risk of taxpayers seeking monetary damages from the IRS if its personnel are intentionally disregarding the direct contact provisions of the Internal Revenue Code.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Field Collection, Small Business/Self-Employed Division, take steps to provide greater assurance that the existing procedures designed to afford taxpayers their right to appropriate and effective representation are followed during the field collection process.

In their response to the report, IRS officials agreed with the recommendation and plan to take corrective actions. Specifically, the IRS plans to issue a memorandum reinforcing the need for Collection Field function personnel to follow the procedures and clarify the Internal Revenue Manual to include guidance for managers emphasizing the need to review for adherence to the procedures.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2012reports/201230089fr.pdf>.