Treasury Inspector General for Tax Administration
Office of Audit

FISCAL YEAR 2013 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

Issued on August 15, 2013

Highlights

Highlights of Report Number: 2013-30-073 to the Internal Revenue Service Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

The IRS Restructuring and Reform Act of 1998 (RRA 98) requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTER) or base employee successes on meeting ROTER goals and quotas. Based on the results of our sample, TIGTA believes the IRS's efforts to enforce the employee evaluation requirements under RRA 98 Section 1204 are generally effective and are helping to protect the rights of taxpayers.

WHY TIGTA DID THE AUDIT

TIGTA is required under Internal Revenue Code Section 7803(d)(1)(2000) to annually evaluate whether the IRS complies with restrictions on the use of enforcement statistics under RRA 98 Section 1204. Our review determined whether the IRS complied with:

- Section 1204(a), which prohibits the IRS from using any ROTER to evaluate employees, or to impose or suggest production quotas or goals.
- Section 1204(b), which requires that employees be evaluated using the fair and equitable treatment of taxpayers as a performance standard.
- Section 1204(c), which requires each appropriate supervisor to self-certify quarterly whether ROTERs were used in a prohibited manner.

WHAT TIGTA FOUND

The IRS did not achieve full compliance with RRA 98 Section 1204 requirements. TIGTA identified instances of noncompliance with each subsection of the law:

- Section 1204(a) – eight violations.
- Section 1204(b) – 15 instances of documentation noncompliance.
- Section 1204(c) – one instance of noncompliance.

TIGTA also identified five IRS policy violations. In these five instances, managers did not reject employee self-assessments containing ROTER information.

The IRS is taking a proactive approach to Section 1204 training and has received approval to conduct the mandatory training in the form of a briefing every two years. However, once the mandatory biannual briefing period is over, the training is not scheduled to be given in the interim to any newly hired Section 1204 employee or manager. To address our concerns regarding Section 1204 new hires, IRS management stated that they plan to provide training each quarter for any recently hired Section 1204 employees and managers, instead of having them wait until the next biannual briefing.

WHAT TIGTA RECOMMENDED

TIGTA made four recommendations, including that the Section 1204 noncompliance and IRS policy violations identified in this report be discussed with the responsible managers and employees.

The IRS agreed to address noncompliance on three of the eight Section 1204(a) violations but did not agree with five of the eight Section 1204(a) violations. However, IRS documents included, for example, references to indictments, convictions, prosecution rates, or monies protected or recovered. Inferences could be made suggesting a production goal or quota and there was "soft language or phrases" that were suggestive of ROTERs.

The IRS has taken or plans to take corrective actions on the remaining recommendations.

READ THE FULL REPORT

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

http://www.treas.gov/tigta/auditreports/2013reports/201330073fr.pdf.

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