



## Treasury Inspector General for Tax Administration Office of Audit

### IMPROVEMENTS ARE NEEDED IN ASSESSING AND ENFORCING INTERNAL REVENUE CODE SECTION 6694 PAID PREPARER PENALTIES

Issued on September 9, 2013

## Highlights

Highlights of Report Number: 2013-30-075 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### IMPACT ON TAXPAYERS

More than half of all taxpayers pay someone else to prepare their Federal income tax returns. When paid preparers take an unreasonable position or intentionally prepare inaccurate tax returns, Internal Revenue Code (I.R.C.) Section (§) 6694 provides penalty standards for paid preparers to discourage further fraudulent or unscrupulous behavior.

### WHY TIGTA DID THE AUDIT

The IRS Oversight Board requested that TIGTA determine how effective the IRS is in using the existing requirements and penalty regime that applies to unenrolled paid tax return preparers. Our overall objective was to determine whether controls are in place to ensure that the IRS effectively enforces and applies penalties to paid preparers as required by I.R.C. § 6694.

### WHAT TIGTA FOUND

TIGTA reviewed a statistical sample of 98 closed I.R.C. § 6694 preparer penalty cases from a population of 2,345 cases with penalties totaling \$9.35 million that were closed during Fiscal Years 2009 through 2011. Our results showed that in eight cases, the immediate managers did not properly approve \$19,000 in preparer penalty assessments as required. I.R.C. § 6751(b) requires that no penalty shall be assessed unless the initial determination of such assessment is personally approved in writing by the immediate supervisor. The lack of proper approval could hinder the IRS's ability to successfully litigate these penalty assessments in court if necessary. When this issue was brought to their attention, IRS officials took immediate corrective actions by emphasizing the importance of properly approving, in writing, preparer penalty assessments.

TIGTA also analyzed the IRS's quality reviews for civil penalty determinations to evaluate whether preparer penalties were properly considered and documented. IRS quality reviewers found that examiners did not

always adequately document the examination case files with the facts that supported whether or not they considered paid preparer penalties. This appeared to be attributable to management's interpretation of procedures regarding proper documentation in the examined cases.

In addition, TIGTA analyzed the Master File to determine whether the IRS is effectively enforcing paid preparer penalties. Our results showed that current enforcement practices do not treat paid preparers with unpaid penalties as a priority, which could impact whether penalties achieve their intent of changing preparer behavior and increasing voluntary compliance.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS update the Internal Revenue Manual and implement improvements to ensure that managers and employees adhere to internal procedures for documenting actions and results in the preparer penalty case files. TIGTA also recommended that the IRS develop procedures to expedite assigning I.R.C. § 6694 preparer penalty tax accounts to a revenue officer as well as to give more consideration before suspending collection actions on these types of accounts.

IRS officials agreed with all of our recommendations and plan to take appropriate corrective actions.

### 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/201330075fr.pdf>.

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