



Treasury Inspector General for Tax Administration Office of Audit

ADDITIONAL DOCUMENTATION IS NEEDED TO SUPPORT OFFICE OF APPEALS PENALTY ABATEMENT DECISIONS

Issued on July 30, 2015

Highlights

Highlights of Report Number: 2015-10-059 to the Internal Revenue Service Chief of Appeals.

IMPACT ON TAXPAYERS

The Office of Appeals (Appeals) is an independent function within the IRS whose mission is to resolve disputes on a fair and impartial basis without litigation. Appeals has the authority to abate certain taxpayer penalties when the abatement has been denied by other functions within the IRS. In Fiscal Year 2013, Appeals abated approximately \$127 million in penalties. It is important that Appeals personnel apply a consistent methodology when deciding whether or not to abate penalties to promote fair and impartial resolutions to taxpayers.

WHY TIGTA DID THE AUDIT

This audit was initiated to evaluate whether penalties assessed against taxpayers were fully or partially abated in accordance with Appeals criteria.

WHAT TIGTA FOUND

TIGTA found that in most cases Appeals properly accepted cases in which the IRS operating divisions had previously denied the taxpayer's request for abatement and sufficiently documented the reasons for penalty abatements in case files. However, TIGTA found that 59 of 140 sampled penalty appeal cases were not abated in accordance with Appeals criteria because operating divisions had not denied the abatement or because case files did not support the abatement. Based on these results, TIGTA estimates that in Fiscal Year 2013, 1,411 penalty appeal cases and more than \$39 million in penalty abatements did not comply with Appeals criteria.

For 57 cases, TIGTA could not determine the justification Appeals personnel used to abate the penalties. For example, Appeals used its authority to abate penalties based on the hazards of litigation, which reflects the uncertainty of the court's decision if the taxpayer were to take his or her case to trial. However, for some cases, Appeals did not document how it arrived at its determination by outlining the hazards of litigation.

TIGTA also identified a small number of other processing errors and control weaknesses affecting taxpayer accounts. For example, Appeals managerial case review policy does not specify that high-dollar abatements by Appeals Officers and Settlement Officers must be reviewed by a manager. Specifically, in four cases, Appeals Officers abated a total of more than \$580,000 in penalties without managerial approval. Appeals Officers did not violate IRS policy because they have been delegated the authority to abate unlimited penalty amounts without managerial approval.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Chief, Appeals, provide training to Appeals personnel on the requirements instructing them to clearly document the reasons for abatement decisions and review the delegated settlement authority of Appeals Officers to determine whether changes are needed to address the risk of allowing unlimited abatements without managerial approval.

The IRS agreed with our recommendations. The IRS plans to provide additional training to Appeals Technical Employees who work penalty abatement cases and to review the existing delegated settlement authority and evaluate any risk associated with the current delegation.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2015reports/201510059fr.pdf>