



Treasury Inspector General for Tax Administration Office of Audit

EMPLOYERS WHO DO NOT COMPLY WITH REQUESTS TO PROVIDE COMPLETE AND ACCURATE WAGE DOCUMENTS ARE NOT ALWAYS ASSESSED PENALTIES

Issued on September 22, 2015

Highlights

Highlights of Report Number: 2015-40-090 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

Each year, the Social Security Administration (SSA), in a process called Annual Wage Reporting, matches wage and withholding information sent by employers to tax returns filed by those employers with the IRS to identify discrepancies between the information submitted to each agency. The SSA's primary focus is to identify discrepancies in which earnings and tax withholdings reported to the IRS on filed tax returns differs from amounts reported on Forms W-2, *Wage and Tax Statement*, submitted to the SSA. A discrepancy can indicate that employees' earnings were not credited to their Social Security account.

WHY TIGTA DID THE AUDIT

The SSA refers unresolved discrepancy cases to the IRS because the IRS has the authority to penalize an employer if the employer fails to file complete and accurate Forms W-2 and W-3, *Transmittal of Wage and Tax Statements*. Discrepancies in crediting wages to an individual's Social Security account may affect the amount of Social Security benefits available to the employee upon retirement. The overall objective was to evaluate the IRS's processes and procedures for working SSA Combined Annual Wage Reporting discrepancy cases.

WHAT TIGTA FOUND

TIGTA found that the IRS did not always assess penalties against employers that did not reply to the IRS's requests to resolve SSA-reported discrepancies as required. TIGTA's analysis of discrepancy cases referred to the IRS by the SSA for Tax Year 2011 found that the IRS did not correctly assess more than \$200 million in penalties on 32 employer discrepancy cases referred by the SSA. A comparison of wages and withholding reported by these 32 employers on their tax return to Forms W-2 submitted to the SSA identified

underreported Forms W-2 wages totaling more than \$2 billion. IRS management indicated that no process was established to identify these cases and, as a result, the penalties were not assessed as required.

In addition, TIGTA's analysis of discrepancy cases identified that the IRS excluded 22,814 of the 134,937 cases referred from the SSA. Of the 22,814 referred cases, 608 did not meet the IRS's case processing exclusion criteria and were erroneously excluded from being worked. As a result, the IRS did not assess more than \$22 million in penalties. A comparison of wages and withholding reported by employers on their tax return to Forms W-2 submitted to SSA for these 608 cases identified underreported Forms W-2 wages totaling more than \$225 million.

As part of a settlement agreement resulting from a lawsuit to force prompt resolution of the backlog of unreconciled cases (*i.e.*, wage information was not being timely recorded to earnings records), the IRS is required to work all cases referred by the SSA. IRS management indicated that the 608 cases were erroneously excluded because of computer programming errors.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Commissioner, Small Business/Self-Employed Division (1) develop a process to identify and ensure that penalties are assessed as required on those employers that do not reply to the IRS's requests for missing Forms W-2, and (2) correct computer programming errors to ensure that cases are accurately reflected in open inventory as needing to be worked and that penalties are assessed when appropriate. The IRS agreed with our recommendations and plans 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/2015reports/201540090fr.pdf>.